IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY, INTERNATIONAL, **Plaintiff/Respondent,** **vs.** **GERALD ARMSTRONG,** **Defendant/Appellant.**	)	**NO. A075027**

CLERK'S TRANSCRIPT ON APPEAL

FROM A JUDGMENT MADE AND ENTERED

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

VOLUME 11

For the Plaintiff/Respondent:

Andrew Wilson, Esq.
WILSON, RYAN & CAMPILONGO
115 Sansome Street, 4th Floor
San Francisco, CA 94104

For the Defendant/Appellant (In Pro Per):

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, CA 94960

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

DEPARTMENT 1

CHURCH OF SCIENTOLOGY, INTERNATIONAL, Plaintiff, vs. GERALD ARMSTRONG, Defendant.	No. 157680

GARY W. THOMAS	JUDGE
JOHN P. MONTGOMERY	COURT EXECUTIVE OFFICER
ELAINE PASSARIS	REPORTER

For the Plaintiff:

Andrew Wilson, Esq.
WILSON, RYAN & CAMPILONGO
115 Sansome Street, 4th Floor
San Francisco, CA 94104

For the Defendant (In Pro Per):

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, CA 94960

CHRONOLOGICAL INDEX NO. 157680 VOL. 11 LA NO. BC 052395 PAGE NO.

SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFF'S MOTIN FOR SUMMARY ADJUDICATION OF THE FOURTH, SIXTH AND ELEVENTH CAUSES OF ACTION OF PLAINTIFF'S SECOND AMENDED COMPLAINT (EXHIBIT D, ET SEQ.) 8/2/94 2821

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LEWIS, D'AM[illegible], BRISBOIS & BISGAARD
DAVID B. PARKER
GRAHAM E. BERRY
JAYESH PATEL
221 North Figueroa Street, Suite 1200
Los Angeles, California 90012
(213) 250-1800

JOSEPH A. YANNY, ESQ.
1925 Century Park East
Suite 1260
Los Angeles, California 90067
(213) 551-2966

Attorneys for Amicus Curiae Joseph A. Yanny, an individual and Joseph A. Yanny, a professional Law Corporation.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, A California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG and DOES 1 through 25 inclusive, Defendants.	No. BC 052 395 DECLARATION OF GRAHAM E. BERRY TO ALL EVIDENCE IN SUPPORT OF AMENDED AMICUS CURIAE BRIEF IN OPPOSITION TO PLAINTIFFS' ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION AND SUPPORTING EXHIBITS Date: May 14, 1992 Time: 8:30 a.m. Dept.: 86 [Filed concurrently with Joseph A. Yanny's Amended Amicus Curiae Brief]

I, Graham E. Berry, declare:

1. I am an attorney duly licensed to practice before the courts in the state of California and I am a member of the law firm of Lewis, D'Amato, Brisbois & Bisgaard, attorneys of record for amicus curiae Joseph A. Yanny, Esq. in this action.

2. I have personal knowledge of the facts contained in this declaration and could and would competently testify to those

facts if called upon to do so. As to t[illegible] matters which are stated to be upon information and belief, I believe them to be true.

3. This declaration is offered in support of Joseph A. Yanny's amicus curaie brief in opposition to plaintiffs' order to show cause re preliminary injunction.

4. Attached hereto as Exhibit A is a copy of a document entitled mutual release of all claims and settlement agreement dated 12-6-86. ("The Armstrong Settlement Agreement.")

5. Attached hereto as Exhibit B is a copy of a document entitled settlement agreement and bearing various dates in and around December 6, 1986.

6. Attached hereto as Exhibit C is a copy of an order dismissing action with prejudice dated December 11, 1986.

7. Attached hereto as Exhibit D is a copy of a minute order entered December 12, 1986.

8. Attached hereto as Exhibit E is a copy of reporters transcript of proceedings, December 11, 1986.

9. Attached hereto as Exhibit F is a copy of Reporters transcript of hearing dated August 6, 1991 in Religious Technology Center et al v. Joseph A. Yanny, et al. ("The Yanny II Injunction Hearing").

10. Attached hereto as Exhibit G is a copy of a memorandum of intended decision and accompanying minute order dated June 22, 1984. ("The Breckenridge Decision in Armstrong I").

11. Attached hereto as Exhibit H is a copy of the complaint in Vicki Aznaran and Richard Aznaran v. Church of

Scientolog[illegible] al. ("The Aznaran Comp[illegible]t").

12. Attached hereto as Exhibit I is a copy of a verified complaint in Religious Technology Center et al. v. Joseph A. Yanny, ("The Yanny II Complaint").

13. Attached hereto as Exhibit J is a copy of the verified first amended answer in Religious Technology Center et al v. Joseph A. Yanny et al. ("The Yanny II Answer")

14. Attached hereto as Exhibit K is a copy of Reporters Transcript of Proceedings, December 23, 1991. ("The Geernaert Decision in Armstrong I")

15. Attached hereto as Exhibit L is a copy of a letter and enclosure dated March 13, 1992 from Graham E. Berry of Lewis, D'Amato, Brisbois & Bisgaard to Laurie J. Bartilson of Bowles & Moxon requesting plaintiffs to release Gerald Armstrong from the provisions of the Armstrong Settlement Agreement with regard to Joseph A. Yanny.

16. Attached hereto as Exhibit "M" is a copy of a letter from Gerald Armstrong to Eric Lieberman a Scientology attorney dated August 21, 1991 complaining of harassment, surveillance and terrorism.

17. Attached hereto as Exhibit N is a copy of reporters transcript of proceedings dated March 3, 1992. ("The Dufficy Decision").

18. Attached hereto as Exhibit O is a copy of a meet and confer statement in Religious Technology Center et al v. Joseph A. Yanny ("Yanny II") which explains the Yanny II litigation and underlying facts.

//

19. Attached hereto as Exhibit P is a copy of a Declaration of Gerald Armstrong Dated March 16, 1992.

20. Attached hereto as Exhibit Q are deposition excer2pts from the Deposition of Gerald Armstrong taken on Tuesday, March 17, 1992.

21. Attached hereto as Exhibit R are deposition excerpts from the Deposition of Gerald Armstrong taken on April 7, 1992.

22. Attached hereto as Exhibit S is a copy of L. Ron Hubbard's Technique 88 "Control and Lying".

23. Attached hereto as Exhibit T is a copy of "Suppressive Person Declare Gerry Armstrong."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 7th day of May, 1992 at Los Angeles, California.

Graham E. Berry

Graham E. Berry

Exhibit B

WORK COPY

SETTLEMENT AGREEMENT

A. PRIOR SETTLEMENTS:

Settlement agreements made prior to November 1, 1986 and prior to the collective settlement stated below:

	Client	Amount	Fee and Expenses
(1)	Bears	$115,000.00	To be determined with local counsel
(2)	Garritys	$175,000.00	To be determined with local counsel
(3)	Petersons	$175,000.00	To be determined with local counsel
(4)	Jefferson	$150,000.00	To be determined with local counsel
(5)	Lockwood	$150,000.00	To be determined with local counsel
(6)	Hartwell	$150,000.00	To be determined with local counsel
		$915,000.00	To be determined with local counsel

B. INDEPENDENT SETTLEMENT:

The Christofferson-Titchborne settlement was made separate from the collective settlement. It was agreed to between attorney Gary McMurray, his client, Julie Christofferson-Titchborne and the Church of Scientology.

EXHIBIT H

Client	Amount	Fee and Expenses
Christofferson-Titchborne	$100,000.00	To be determined by attorney McMurray and client. None of the attorneys representing other clients in the collective settlement represent or have represented Christofferson-Titchborne.

C. **COLLECTIVE SETTLEMENT:**

The following cases/clients are part of a collective settlement made on December 11, 1986. The undersigned acknowledge that the settlement set forth above in Paragraphs A and B were made as separate settlements, meaning that the cases/clients listed in Paragraphs A and B agreed to the amounts stated therein prior to the collective settlement as in Paragraph A, and independent from the collective settlement as in Paragraph B. The total amount of the collective settlement is $2,800,000.00. The total amount of the collective settlement and the prior independent settlements in Paragraphs A and B is $3,815,000.00. The collective settlement allocation is as follows:

Client	Amount	Fee and Expenses
(1) Nancy Dincalci	$ 7,500.00	None
(2) Kima Douglas	$ 7,500.00	None
[illegible]	[illegible]	[illegible]

EXHIBIT H

(3)	Robert Dardano	$ 15,000.00	None
(4)	Warren Friske	$ 15,000.00	None
(5)	William Franks	$ 40,000.00	None
(6)	Laurel Sullivan	$ 40,000.00	None
(7)	Edward Walters	$100,000.00	To be determined between client and attorneys
(8)	Howard Schomer	$200,000.00	To be determined between attorney Bunch and client
(9)	Martin Samuels	$500,000.00	To be determined between attorney McMurray and client
(10)	Gerald Armstrong v. Church of Scientology	$800,000.00	To be determined between attorney Bunch and client
(11)	Fees and expenses to attorneys Contos & Bunch, Robert Kilbourne, Michael Flynn, and associated counsel for the prosecution and defense of various cases including the "Hubbard documents" case, the "check-frame up" case and the defense of approximately 17 lawsuits against attorney Flynn and his clients.	$500,000.00	To be determined between attorneys Contos & Bunch, Michael Flynn, Robert Kilbourne, and associated counsel
(12)	Flynn v. Ingram (No. ______________)	$575,000.00	To be determined between attorney Flynn and his counsel
	Flynn v. Hubbard (No. ______________)	-0-	
		$2,000,000.00	

We, the undersigned, agree and acknowledge that (1) we have read the foregoing Settlement Agreement; (2) that we agree with the total settlement amount and the allocations to the respective cases/clients as set forth therein; (3) that we have either consulted, been advised to consult or have had the opportunity to consult with attorneys other than Michael J. Flynn who, we acknowledge is also a claimant against the Church of Scientology and L. Ron Hubbard; (4) that we agree to maintain the confidentiality of this Settlement Agreement; (5) that we acknowledge that many of the cases/clients involved in this settlement have been in litigation against the Church of Scientology for more than six to seven years, that many have been subjected to intense, and prolonged harassment by the Church of Scientology throughout the litigation, and that the value of the respective claims stated therein is measured in part by the (a) length and degree of harassment; (b) length and degree of involvement in the litigation; (c) the individual nature of each respective claim in connection with either their involvement with the Church of Scientology as a member and/or as a litigant; (d) the unique value of each case/client based on a variety of things including, but not limited to, the current procedural posture of a case, specific facts unique to each case, and financial, emotional or consequential damage in each case; that we agree and

EXHIBIT H

acknowledge that Michael J. Flynn has primarily been responsible for bearing the cost of the litigation over a period of approximately seven years, that he or his firm's members have been required to defend approximately 17 lawsuits and/or civil/criminal contempt actions instituted by the Church of Scientology against him, his associates and clients, that he and his family have been subjected to intense and prolonged harassment, and that his claims against the Church of Scientology and L. Ron Hubbard, and his participation as an attorney have a unique value which is accurately and properly reflected in the allocations set forth herein.

NANCY DINCALCI DATE: Dec 5, 1986

KIMA DOUGLAS DATE: Dec 5 - 1986

ROBERT DARDANO DATE: [illegible]-30-1986

WARREN FRISKE DATE:

LAUREL SULLIVAN DATE: [illegible]

D[illegible] [illegible]

Julie Christofferson Titchbourne

Dec. 6, 1986

EXHIBIT H

Paul Gasr DATE: ______________

WILLIAM FRANKS DATE: [illegible] 2831

Edward Walters
EDWARD WALTERS DATE: December 7th 1986

Howard Schomer
HOWARD SCHOMER DATE: 12-5-86

Martin Samuels
MARTIN SAMUELS DATE: Dec 4, 1986

GERALD ARMSTRONG DATE: 12-6-86

MICHAEL J. FLYNN DATE: ______________

CONTOS & BUNCH
A PROFESSIONAL CORPORATION

BY: Julia Dragojevic
~~BRUCE M. BUNCH~~ JULIA DRAGOJEVIC DATE: 12-10-86

Gary McMurray
GARY MC MURRAY DATE: December 6, 1986

ROBERT KILBOURNE DATE: ______________

Jane Peterson
3:3:17 DATE: ______________

Richard Peterson DATE: ______________

-6-

[illegible] Date: [illegible]

EXHIBIT H

Marin ependent Journal, Wednesday, N ber 11, 1992

IJ photo/Frankie Frost

CASH CRITIC: Gerald Armstrong of San Anselmo reflects on how the world would be a better place without money

Is money the root of problems?

Critic of cash, credit urges monetary abolition

By Richard Polito

Independent Journal reporter

Gerald Armstrong has an idea for dealing with the national debt — write it off. Forget it. It doesn't exist.

It's that easy.

The novel prescription for fixing the fiscal fiasco is only part of Armstrong's larger message that money should be abolished. No more pay checks, no more loan payments, no more taxes, and forget that $20 you owed your brother-in-law.

Bank presidents would clean up litter. Donald Trump could get a real job. The Financial District would be a ghost town with marble lobbies — and lots of parking.

And it all starts today.

In a rare moment of realism, Armstrong admits today's deadline "is probably not going to be achieved."

Renouncing cash, credit

Armstrong, self-proclaimed founder of the Organization of United Renunciants, set the date for people who have taken his "pledge of renunciation" to stop using money. Fellow renunciants will renounce all cash and credit, stop taking money, stop paying with money, forgive all their debts and stop keeping financial records.

The critic of credit has already put his money where his doubts are. He gave it all away. And it was more than pocket change.

Armstrong won an $800,000 settlement in a harassment suit against the Church of Scientology six years ago. Once a member of the inner circle, he is now a vocal critic.

Armstrong doesn't expect everyone to buy in from the start, just "somewhere between 1 and 11 percent."

He's a tad short. Armstrong can count only a handful of friends as converts, but he is trying to get the word out. Detailed proposals have gone out to Bill Clinton, Ross Perot and Pete Wilson (no one has tapped him for an economic advisory post just yet.) He has also written to the New York Times and other mega-media.

Ted Koppel has not called.

Money considered valueless

Armstrong is not discouraged.

The monetary messiah insists there is much about daily life that will not change. People will still go to work, shop at the market and pick out a new car every few years. They just wouldn't exchange any money along the way.

Money, in Armstrong's eyes, has no value and the existence of money has created entire industries that do nothing more than transfer mythical essences of value from one account to another.

In Armstrong's cashless Utopia, there would be total employment because people could do jobs they wanted to do and companies could employ more workers because they would not have to pay them. Farmers would still farm. Autoworkers would still make cars. Sewer workers would still shovel sludge.

And Disneyland would no longer charge admission.

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY INTERNATIONAL,
Plaintiff and Respondent,
v.
GERALD ARMSTRONG,
Defendant and Appellant.

No. B069450
(Super.Ct.No. BC052395)

COURT OF APPEAL - SECOND [illegible]
FILED
[illegible] 1994
JO[illegible] Clerk
[illegible]

APPEAL from an order of the Superior Court of Los Angeles County, Ronald M. Sohigian, Judge. Affirmed.

Ford Greene and Paul Morantz for Defendant and Appellant.

Bowles & Moxon, Karen D. Holly, Wilson, Ryan & Campilongo, Andrew H. Wilson, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, Eric M. Lieberman, and Michael Lee Hertzberg for Plaintiff and Respondent.

Defendant and appellant Gerald Armstrong (Armstrong) appeals from an order granting a preliminary injunction restraining Armstrong from voluntarily giving assistance to other persons litigating or intending to litigate claims against plaintiff and respondent Church of Scientology International (Church).

The injunction was granted to enforce a settlement agreement in prior litigation between Armstrong and Church. In the settlement, Armstrong agreed he would not voluntarily assist other persons in proceedings against Church.

Armstrong does not deny violating his agreement but asserts numerous reasons why his agreement should not be enforceable. We conclude that the narrowly-limited preliminary injunction, which did not finally adjudicate the merits of Armstrong's claims, was not an abuse of the trial court's discretion to make orders maintaining the status quo and preventing irreparable harm pending the ultimate resolution of the merits.

FACTUAL AND PROCEDURAL BACKGROUND

Armstrong was a member of Church between 1969 and 1981. He became an insider of high rank, familiar with Church practices and documents. He became disillusioned and left Church in 1981. When he left, he took many Church documents with him.

The Prior Action and Settlement

Church brought the prior action against Armstrong seeking return of the documents, injunctive relief against further dissemination of information contained in them, and imposition of a constructive trust. Mary Sue Hubbard, wife of Church founder L. Ron Hubbard, intervened asserting various torts against Armstrong. Armstrong filed a cross-complaint seeking damages for fraud, intentional infliction of emotional distress, libel, breach of contract, and tortious interference with contract.

Church's complaint and Hubbard's complaint in intervention were tried in 1984 by Judge Breckenridge. That trial led to a judgment, eventually affirmed on appeal, holding Armstrong's conversion of the documents was justified because he believed the conversion necessary to protect himself from Church's claims that he had lied about Church matters and L. Ron Hubbard. (Church of Scientology v. Armstrong (1991) 232 Cal.App.3d 1060, 1063, 1073.)

Armstrong's cross-complaint in that case was settled in December 1986 by the settlement agreement which is the subject of the injunction in the present case.

In the settlement agreement, the parties mutually released each other from all claims, except the then-pending appeal of Judge Breckenridge's decision on Church's complaint, which was expressly excluded. The settlement involved a number of persons engaged in litigation against Church, all represented by Attorney Michael Flynn. As a result of the settlement, Armstrong was paid $800,000. Armstrong's cross-complaint was dismissed with prejudice, as agreed, on December 11, 1986.

The portions of the settlement agreement most pertinent to this appeal are paragraphs 7-G, 7-H, and 10, in which Armstrong agreed not to voluntarily assist other persons intending to engage in litigation or other activities adverse to Church.[1]

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[1] "G. Plaintiff agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology. [¶] H. Plaintiff agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. Plaintiff shall not make himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpoena, Plaintiff agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his immediate family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed. [¶] . . . 10. Plaintiff agrees that he will not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement."

Paragraph 20 of the agreement authorizes its enforcement by injunction.

The Present Action

In February 1992, Church filed a complaint in the present action alleging Armstrong's violation of the settlement agreement and seeking damages and injunctive relief.

In support of its motion for a preliminary injunction, Church presented evidence that since June 1991 Armstrong had violated the agreement by working as a paralegal for attorneys representing clients engaged in litigation against Church and by voluntarily and gratuitously providing evidence for such litigation. Armstrong worked as a paralegal for Attorney Joseph Yanny, who represented Richard and Vicki Aznaran in a multimillion dollar suit against Church in federal court. Armstrong also voluntarily provided declarations for use in the Aznarans' case. Armstrong thereafter worked for Attorney Ford Greene on the Aznaran and other Church related matters.

Armstrong did not deny the charged conduct but asserted the settlement agreement was not enforceable for various reasons, primarily that it was against public policy and that he signed it under duress.

The Trial Court's Preliminary Injunction

The trial court granted a limited preliminary injunction, with exceptions which addressed Armstrong's argument that the settlement agreement violated public policy by requiring suppression of evidence in judicial proceedings.

The court found that Armstrong voluntarily entered the settlement agreement for which he received substantial compensation, and that Armstrong was unlikely to prevail on his duress claim. The court found that Armstrong could contract as part of the settlement to refrain from exercising various rights which he would otherwise have. Balancing the interim harms to the parties, the court found that to the extent of the limited acts covered by the preliminary injunction, Church would suffer irreparable harm which could not be compensated by monetary damages, and harm for which monetary damages would be difficult to calculate. (Code Civ. Proc., § 526, subds. (a)(2), (a)(4), (a)(5).)

The court's order provides, in pertinent part: "Application for preliminary injunction is granted in part, in the following respects only. [¶] Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following: [¶] Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it. [¶] Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986."

The court provided the following exceptions to address Armstrong's public policy arguments: "The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the 'Mutual Release of All Claims and Settlement Agreement' of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order."

/

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/

/

DISCUSSION

The grant of a preliminary injunction does not adjudicate the ultimate rights in controversy between the parties. It merely determines that the court, balancing the relative equities of the parties, concludes that, pending a trial on the merits, the defendant should be restrained from exercising the right claimed. The purpose of the injunction is to preserve the status quo until a final determination of the merits of the action. (Continental Baking Co. v. Katz (1968) 68 Cal.2d 512, 528.)

The court considers two interrelated factors. The first is the likelihood the plaintiff will prevail at trial. The second is the interim harm the plaintiff is likely to sustain if the injunction is denied, as compared to the harm the defendant is likely to suffer if the injunction is granted. (Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, 286.)

The decision to grant or deny a preliminary injunction rests in the discretion of the trial court. Accordingly, an appellate court's review on appeal from the granting of a preliminary injunction is very limited. The burden is on the appellant to make a clear showing that the trial court abused its discretion. (IT Corp. v. County of Imperial (1983) 35 Cal.3d 63, 69; Nutro Products, Inc. v. Cole Grain Co. (1992) 3

Cal.App.4th 860, 865.) Abuse of discretion means the trial court has exceeded the bounds of reason or contravened the uncontradicted evidence. (IT Corp. v. County of Imperial, supra, 35 Cal.3d at p. 69.)

Here, the trial court's memorandum decision reflects very careful consideration of the factors relevant to the granting of a preliminary injunction. The court weighed the relative harms to the parties and balanced the interests asserted by Armstrong. The court granted a limited preliminary injunction with exclusions protecting the countervailing interests asserted by Armstrong. We find no abuse of discretion. We cannot say that the trial court erred as a matter of law in weighing the hardships or in determining there is a reasonable probability Church would ultimately prevail to the limited extent reflected by the terms of the preliminary injunction.

Although Armstrong's "freedom of speech" is affected, it is clear that a party may voluntarily by contract agree to limit his freedom of speech. (See In re Steinberg (1983) 148 Cal.App.3d 14, 18-20 [filmmaker agreed to prior restraint on distribution of film]; ITT Telecom Products Corp. v. Dooley (1989) 214 Cal.App.3d 307, 319 [employee's agreement not to disclose confidential information; "it is possible to waive even First Amendment free speech rights by contract"]; Snepp v. United States (1980) 444 U.S. 507, 509, fn. 3 [book by CIA employee subject to prepublication clearance by terms of his employment contract].)

The exceptions in the trial court's injunction assured that the injunction would not serve to suppress evidence in legal proceedings. The injunction expressly did not restrain Armstrong from accepting service of subpenas, testifying fully and fairly in legal proceedings, and reporting criminal conduct to the authorities. (See Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian (1990) 218 Cal.App.3d 1058, 1081-1082.) This contrasts with the stipulation in Mary R. v. B. & R. Corp. (1983) 149 Cal.App.3d 308, 315-316, cited by Armstrong, which prevented a party from disclosing misconduct to regulatory authorities.

This appeal is only from the granting of a preliminary injunction which expressly did not decide the ultimate merits. As limited by the trial court here, the preliminary injunction merely restrains, for the time being, Armstrong's voluntary intermeddling in other litigation against Church, in violation of his own agreement. We decline any extended discussion of Armstrong's shotgun-style brief, which offers more than a dozen separate contentions against enforcement. It suffices to say that Armstrong has not borne his burden on appeal to demonstrate a clear abuse of discretion.

DISPOSITION

The order granting a preliminary injunction is affirmed.

NOT TO BE PUBLISHED

VOGEL (C.S.), Acting P.J.

We concur:

HASTINGS, J.

KLEIN (Brett), J.*

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*Assigned by the Chairperson of the Judicial Council.

OFFICE OF THE CL[illegible]K
COURT OF APPEAL
STATE OF CALIFORNIA

2844

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 4 DATE: 05/16/94

Bowles & Moxon
Laurie J. Bartilson
6255 Sunset Blvd
Suite 2000
Hollywood, CA. 90028

RE: Church of Scientology International
vs.
Armstrong, Gerald
2 Civil B069450
Los Angeles NO. BC052395

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

2845

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1a

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

ate: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1b

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of $70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

ate: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1c

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.

RONALD M. SOHIGIAN

RONALD M. SOHIGIAN
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT, DIVISION FOUR

Civ. No. B 069450
(Super. Ct. No. BC 052395)

CHURCH OF SCIENTOLOGY INTERNATIONAL,

Plaintiff-Respondent

-vs-

GERALD ARMSTRONG,

Defendant-Appellant.

On Appeal From Superior Court Of The State Of California
County of Los Angeles
The Honorable Ronald M. Sohigian

APPELLANT'S OPENING BRIEF

Ford Greene
HUB LAW OFFICES
California State Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades,
California 90272
(213) 459-4745

Attorneys for Appellant
GERALD ARMSTRONG

COPY

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Civil No. B 069450

IN THE COURT OF APPEAL FOR THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT, DIVISION FOUR

CHURCH OF SCIENTOLOGY INTERNATIONAL, Plaintiff and Respondent, vs. GERALD ARMSTRONG, Defendant and Appellant.	[Los Angeles Superior Court No. BC 052395]

APPELLANT'S OPENING BRIEF

INTRODUCTION

Appellant Gerald Armstrong appeals the issuance of a preliminary injunction by the Honorable Ronald M. Sohigian of the Los Angeles Superior Court in favor of respondent Church of Scientology International ("Scientology").

Despite the fact that the trial court granted very little of the injunctive relief Scientology sought, for the reasons stated below the injunction is illegal.

The settlement agreement the injunction in part enforces was procured by fraud, duress and the compromise of appellant's own attorney who also represented well over a dozen signing plaintiffs in the same "global settlement." None were represented by independent counsel. Flynn, who himself was a plaintiff, gained the most by the settlement, and at no time advised Armstrong that pursuant to the terms of the settlement Scientology could say whatever slander it wanted about Armstrong while he had to remain mute.

The injunction violates Armstrong's First Amendment Rights to Freedom of Speech and Association and is a violation of Fourteenth Amendment Right to Equal Protection as it creates two classes of litigants. Those who have the money can buy Armstrong's testimony because he can only testify when compelled by Court Order. Those who cannot pay for Court Orders must go without the foremost expert on Scientology in the world.

It is Armstrong's special first-hand knowledge of a criminal organization that has been judicially suppressed through the mechanism of a preliminary injunction at issue here. Scientology would hold Armstrong silent while it slanders him - making him a "dead agent" - with impunity in order to further foist distortion and misrepresentation upon the world.

The injunction deprives the public of expert information and competent testimony an organization long-recognized as criminal, that preys on the weak, lost and lonely.

The injunction undermines the integrity of the judicial system and is an affront to honesty and fair play.

STATEMENT OF THE CASE

On February 4, 1992, Scientology filed its verified complaint for damages and for preliminary and permanent injunction against defendant Gerald Armstrong in Marin County Superior Court Action No. 152229. On March 30, 1992 the Marin court granted Armstrong's motion to transfer to the Los Angeles County Superior Court where it became Action No. BC 052395. During the pendency of Scientology's motion for injunctive relief, and in order to maintain the status quo, but specifically stating there was no adjudication on the merits, the Marin Court granted a temporary restraining order (16) [1] which was ultimately dissolved in Los Angeles.

On May 7, 1992, Scientology filed its Amended Memorandum of

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[1] All citations designated (___) are to the particular sequential page number of the Appendix Filed In Lieu Of Clerk's Transcript pursuant to California Rule of Court 5.1.

Points and Authorities in Support of Plaintiff's Motion for Preliminary Injunction for Breach of Contract (1-29), and Armstrong filed his Opposition to Motion for Preliminary Injunction. (30-50) Scientology replied on May 20, 1992. (51-63) The matter was heard on May 26 and 27, 1992 by the Honorable Ronald M. Sohigian (RT 5/26/92 and 1594-1713) who issued a preliminary injunction by his minute order dated May 28, 1992. (1714-17) Notice of ruling was given on June 5, 1992 in conjunction with the posting of a $70,000.00 bond. (1718-27)

Armstrong's Notice of Appeal was timely filed on July 30, 1992. (1728-30)

STATEMENT OF APPEALABILITY

Since this matter involves the granting of an injunction, it is the proper subject of an appeal. Code of Civil Procedure section 904.1 (f).

I. STATEMENT OF FACTS

A. Gerald Armstrong, The Scientologist

In consequence of being a member of the Scientology Organization for 12 years, Gerald Armstrong gained first-hand knowledge regarding both the nature of the organization and the methods of its day-to-day operations. Although Armstrong ultimately learned, that L. Ron Hubbard ("LRH") was "virtually a pathological liar when it [came] to his history, background, and achievements" (474-75, 485-89, 1004, 1008-14), at the outset of his involvement it was Hubbard's lies which induced his affiliation. (1004-08, 1067)

Armstrong learned that after inducing the affiliation of its members by various deceptions, Scientology continually "violat[ed] and abus[ed] its own members' civil rights, . . . with its "Fair Game" doctrine [and] harass[ed] and abuse[ed] those persons not in the Church whom it perceive[d] as enemies." (474) The "Fair Game Policy," a part of Scientology's system of discipline and punishment, states:

> "Enemy - SP (Suppressive Person) Order. Fair Game. May be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed."

(1036-1037)

Scientology also abused its members' civil rights through breaching its promises that the personal information it extracted from adherents through "auditing" [2] would be kept confidential. Instead, it used such information for the purposes of domination, extortion and blackmail. (734-74, 1039-41) Auditing was also employed to eliminate the members' ability to critically reason, (1038, 1081), despite Scientology's public claim that its purpose was to free individuals. (1086)

Armstrong possesses first-hand information regarding the visible structure of Scientology, and how the leadership ran Scientology through internal organizations, such as the Guardian's Office, the Sea Organization and the Commodore's Messenger Organization, which managed, operated and controlled all of Scientology regardless of any particular corporate designation. (475, 997, 1023-30, 1045-46). He knew that LRH's representation to the general public and the Scientology membership that "the fees you pay for service do not go to me" was false and that LRH lived in splendor while the organization staff lived like slaves. (1032-34)

Armstrong participated in and drilled hundreds of people in institutionalized schemes of practiced deception called "shore stories" or "acceptable truths," which LRH claimed were required to combat the "enemy." (1051, 1016-19, 787-88)

---

[2] During the process of "auditing" in Scientology, a person being "audited," a "penitent," communicates to the clergyman, counselor, or therapist, the "auditor," his innermost thoughts and relates incidents from his life which are emotionally charged, embarrassing or for which he could be blackmailed. The auditor writes down what the penitent says in "auditing reports." The auditor demands and records details such as time and place when an incident occurred, who was present, who knew about the incident, their relationship to the penitent and their address or general location. These "auditing reports" form, along with the auditor's notes and instructions made after the auditing sessions, the penitent's auditing files. (1081)

Armstrong was assigned to the Intelligence Bureau of the Guardian's Office [3] headed by LRH and his wife and then posted as LRH's communications aide. (996) During this time he coded and decoded Guardian's Office telexes, and maintained LRH's operations files including those which ordered infiltration of the federal, state and local government offices, and the theft of documents. Armstrong also handled LRH's telexes and dispatches ordering corporate manipulations which showed an absence of corporate integrity among the Scientology organizations.(1045-46)

LRH ordered Armstrong and his wife into the Rehabilitation Project Force ("RPF"), which was "a virtual prison Hubbard had created for any Sea Org members whom he considered to be in violation of or 'counter-intention' ("CI") to his orders or policies." (997; 738; 1048-49) The purpose of the RPF was to control members, who were physically held and not free to leave, break their will and obtain free labor. (740, 1050) Armstrong was imprisoned within the RPF for 17 months on one occasion and 8 months on a second. (739, 997, 999, 1048)

Armstrong personally participated in the massive destruction of evidence ordered in anticipation of a raid by the F.B.I. during which he came across LRH's life archive. (480-81, 485-86, 1000-01) Throughout 1980 and 1981, Armstrong assembled an archive of 500,000 pages of documentation of LRH's life, writings and accomplishments. (1003) In October 1980, LRH contracted with an independent author, Omar V. Garrison, to write his biography. (1004) Armstrong became Garrison's "research assistant." (1004; 483-85)

---

[3] "The Guardian's Office is charged with the protection of Scientology. The Guardians handle intelligence matters including covert operations to acquire Government documents critical of Scientology, internal security within Scientology, and covert operations to discredit and remove from positions of power all persons whom Scientology considers to be its enemies." United States v. Heldt (1981) 668 F.2d 1238, 1247, cert. denied (1982) 102 S.Ct. 1971. The Guardian's Office executed tremendous control throughout all of Scientology, and until 1981, was the most powerful of LRH's two main control lines. (1023-28)

During his biographical research, Armstrong discovered that LRH and Scientology had continuously lied about LRH's past, credentials and his accomplishments. (486, 1008-14) As the wide gap between LRH's claims about himself and the reality evidenced by the documentation Armstrong had assembled became manifest, he attempted to convince Scientology executives to change the biographical materials being published and disseminated about LRH so that they would be truthful. (1004; 486-87)

In response to Armstrong's requests that Scientology tell the truth about Hubbard, a leader ordered that Armstrong be "security checked. (487) Sec checking is a brutally accusative interrogation in which the E-Meter, the electrometer used in Scientology auditing, is employed as a lie detector and tool of intimidation. Upon learning that his sec checking had been ordered, Armstrong and Jocelyn, his wife, left Scientology. (1015)

Following Armstrong's departure, Scientology sued him, and hired private investigators who assaulted him, ran into him bodily with a car, attempted to involve him in a freeway accident, and followed and harassed him day and night for over one month. Scientology made four attempts to bring false criminal charges against him, destroyed his marriage, used his best friend to set him up in an intelligence operation, and had its members, lawyers and private investigators make false statements against him. (1053, 492-93)

B. Scientology Sues Armstrong The First Time And Loses

On August 2, 1982, Scientology sued Armstrong in L.A.S.C. No C420153 ("Armstrong I") for conversion of certain papers which he had archived as part of the Hubbard biography project. After a lengthy trial, Judge Paul G. Breckenridge, Jr., filed his Memorandum of Intended Decision in Armstrong's favor on June 22, 1984. (467) Rejecting Scientology's effort to silence Armstrong and his counsel, (see 1202-1226), he stated:

> Defendant and his counsel are free to speak and communicate upon any of Defendant Armstrong's recollections of his life as a Scientologist or the contents of any exhibit received in evidence or marked for identification and not specifically ordered sealed. . . . defendant and his counsel may discuss the contents of any documents under seal or of any matters as to which this court has found to be privileged as between the parties hereto, with any duly constituted Governmental Law Enforcement Agency or submit any exhibits or declarations thereto concerning such documents or materials, without violating any order of this court.

(469) Judge Breckenridge found the facts presented by Armstrong to be true and incorporated Armstrong's trial brief as an appendix to its decision. (470) He characterized Scientology as malevolent, in part because the organization "or its minions is fully capable of intimidation [of witnesses, including Armstrong] or other physical or psychological abuse if it suits their ends" (474), and provided the following factual findings:

> In 1970 a police agency of the French Government conducted an investigation into Scientology and concluded "this sect, under the pretext of 'freeing humans' is nothing in reality but a vast enterprise to extract a maximum amount of money from its adepts by (use of) pseudo-scientific theories, by (use of) 'auditions' and 'stage settings' (lit. to create a theatrical scene') pushed to extremes (a machine to detect lies, its own particular phraseology . .), to estrange adepts from their families and to exercise a kind of blackmail against persons who do not wish to continue with this sect." [footnote omitted] From the evidence presented to this court in 1984, at the very least, similar conclusions can be drawn.
>
> In addition to violating and abusing its own members civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies. The organization is clearly schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH [L.

> Ron Hubbard]. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, and achievements. The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile.

(Emphasis added.) (474)

In contrast to his findings regarding Scientology, Judge Breckenridge found Armstrong and his witnesses to be credible and sympathetic. He wrote:

> As indicated by its factual findings, the court finds the testimony of Gerald and Jocelyn Armstrong, Laurel Sullivan, Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas, and Homer Schomer to be credible, extremely persuasive and the defense of privilege or justification established and corroborated by this evidence . . . In all critical and important matters, their testimony was precise, accurate, and rang true. The picture painted by these former dedicated Scientologists, all of whom were intimately involved [with the highest echelons of power in] the Scientology Organization, is on one hand pathetic, and on the other, outrageous. Each of these persons literally gave years of his or her respective life in support of a man, LRH [L. Ron. Hubbard], and his ideas. Each has manifested a waste and loss or frustration which is incapable of description.

(Emphasis added.) (473)

C. Scientology's Attempt To Frame Michael Flynn [4]

Within four months of Judge Breckenridge's decision, Scientology engaged in a massive "black PR" campaign against Michael Flynn which included the following operation:

> The recent efforts of Hubbard and his Organization include procurement through the payment of $25,000 to an individual currently under indictment for perjury and fraud, of an affidavit claiming that I assisted in the forgery of a two million dollar check belonging to L. Ron Hubbard. The affidavit was procured by one Eugene Ingram who has been removed from the Los Angeles

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[4] This section is based upon the Declarations of Michael J. Flynn, Armstrong's attorney. The Court should note that said declarations, however, were excluded from evidence. The trial court was incorrect however, because said declaration were based upon the personal knowledge of Flynn.

> Police Department for aiding narcotics dealers, pimping, and running a house of prostitution. Mr. Ingram procured the affidavit from a citizen of the United Arab Emirates after publicizing a $100,000 reward in full page advertisements in the Boston Globe, the New York Times, and other newspapers.

(1183-84) The foregoing facts were found to be accurate in the reported decision, United States v. Kattar (5th Cir. 1988) 840 F.2d 118, 119-22.

D. Scientology's Attempt To Frame Armstrong

In 1984, after the Breckenridge decision, Scientology also attempted to set up and frame Armstrong, to "dead agent" him. As stated by Scientology in the Miller, Aznaran, and Xanthos litigation (discussed infra.)

> Gerald Armstrong has been an admitted agent provocateur of the U.S. Federal Government who planned to plant forged documents in [Scientology's] files which would then be "found" by Federal officials in subsequent investigation as evidence of criminal activity.

(1546-50; see also (1320). He had been

> "plotting against ... Scientology ... and seeking out staff members who would be willing to assist him in overthrowing [Scientology] leadership. [Scientology] obtained information about Armstrong's plans and, through a police-sanctioned investigation, provided Armstrong with the "defectors" he sought. On November 30, 1984, Armstrong met with one Michael Rinder, an individual whom Armstrong thought to be one of his "agents" (but who in reality was loyal to [Scientology]). In the conversation, recorded with written permission from law enforcement, Armstrong stated the following in response to questions by Mr. Rinder as to whether they had to have actual evidence of wrongdoing to make allegations in Court against [Scientology's] leadership:
>
> Armstrong: They can allege it. They can allege it. They don't even have -- they can allege it.
> RINDER: So they don't even have to -- like -- they don't have to have the documents sitting in front of them and then --
> Armstrong: Fucking say the organization destroys documents. . . . Where are the -- we don't have to prove a goddamn thing. We don't have to prove shit; we just have to allege it.

> (Ex. E, Declaration of Lynn R. Farney, ¶ 6.) With such a criminal attitude, Armstrong fits perfectly into Yanny's game plan for the Aznaran case."

(1353-54)

The "written permission from law enforcement" was fraudulent and made without authority. The bogus document was dated November 7, 1984 on the letterhead of Eugene Ingram. (1572)

By public announcement, Los Angeles Chief of Police, Daryl F. Gates, repudiated the "written permission." In part, Chief Gates stated:

> I have directed an official letter to Ingram informing him that the letter signed by Officer Phillip Rodriguez dated November 7, 1984, and all other letters of purported authorizations directed to him, signed by any member of the Los Angeles Police Department, are invalid and unauthorized.

(1574)

Scientology's allegations against Armstrong were thoroughly investigated by the Los Angeles County District Attorney's Office and completely and soundly rejected. (1576-87)

E. The Settlement

In the Armstrong I litigation, on both the complaint and cross-complaint, Armstrong was represented by Boston attorney Michael J. Flynn, who also was Armstrong's employer. (665) In early December 1986, an agreement was reached in Los Angeles by the Scientology Organization and Flynn to settle most of the cases in which Flynn was involved, either as counsel, or as a party. On December 5, 1986, Armstrong, along with nearly a score of other litigants adverse to Scientology - all of whom were represented by Flynn - was flown to Los Angeles to participate in a "global settlement." (667) When Armstrong arrived in Los Angeles from Boston, he knew that settlement negotiations had been going on for months. (762) Upon Armstrong's arrival, he was shown a copy of a document entitled "Mutual Release of All Claims and Settlement Agreement" for the first time, as well as some other documents that he was expected to sign.

When Armstrong read the settlement agreement, he was shocked and heartsick. The agreement betrayed everything that Armstrong had stood for in his battle opposing Scientology. (760) He told Flynn that the condition, set forth in settlement agreement ¶ 7-D, of "strict confidentiality and silence with respect to his experiences with the [Scientology organization]" was outrageous and not capable of compliance because it involved over 17 years of his life. Armstrong told Flynn that ¶ 7-D would require him to pay $50,000 if he told a doctor or a psychologist about his experiences over those 17 years, or if he put on a job resume the positions he had held while in Scientology. He told Flynn that the requirements of non-amenability to service of process in ¶ 7-H and non-cooperation with persons or organizations adverse to the organization in ¶¶ 7-G and 10 were obstructive of justice. Armstrong told Flynn that agreeing in ¶ 4-B to allow Scientology's appeal of Judge Breckenridge's decision in Armstrong I to continue without opposition was unfair to the courts and all the people who had been helped by the decision. Armstrong said to Flynn the affidavit that Scientology demanded he sign along with the settlement agreement was false. (668, 759)

Right after Armstrong first saw the document, he was told there were a number of other people with claims against Scientology who had already signed and others were being flown in to sign. (762) Flynn told Armstrong that he, and all the other lawyers, wanted to get out of the litigation because it had ruined his marriage and his wife's health. Flynn told Armstrong that all the other witnesses upon whom later he would have to depend wanted to settle, too.

In Flynn's presence, Eddie Walters, another litigant adverse to Scientology, yelled at Armstrong. Walters said everybody wanted out of the litigation, that Armstrong's objections would kill the deal for all of the them, and that Armstrong's objections didn't matter because the settlement was bigger than he was. (762-63) Flynn did not stick up for Armstrong. (764)

Flynn told Armstrong if he did not sign all he had to look forward to would be more years of threats, harassment and misery from Scientology, and everybody else would be very upset. Flynn advised Armstrong that the conditions of the settlement which he found offensive "were not worth the paper they were printed on" and that Scientology's lawyers were aware of Flynn's legal opinion and, nonetheless, wanted such language included. (759) Flynn advised Armstrong that in the event that there was further litigation against Armstrong by Scientology, Flynn would still be there to defend him. (768) Armstrong felt "a great deal" of pressure to sign the agreement, and capitulated. (761, 765-66, 772; 670-71)

It was Armstrong's understanding and intent at the time of the settlement that he would honor the silence and confidentiality provisions of the settlement agreement, and that Scientology would do likewise. (672)

On December 11, 1986, Flynn and Scientology attorneys John G. Peterson, Michael Lee Hertzberg and Lawrence E. Heller appeared, ex parte, before Judge Breckenridge, announced that they had settled Armstrong's Cross-Complaint in Armstrong I (458), and submitted a number of documents for filing. (1235-36, 1238, 1240-41, 1243-45, 1247-49, 1251.) Despite its promises, Scientology never did file the settlement agreement. (1258)

When Judge Breckenridge inquired whether the agreement impacted the appeal of his decision, the attorneys said that the agreement did not (458), despite Paragraphs 4-A and 4-B. (75-76) None of the attorneys advised Judge Breckenridge of their side stipulation that any retrial of Armstrong I ordered by the Court of Appeal would limit damages claimed by Scientology to $25,001, (1253) [5] and they failed to advise him there was another side agreement between Flynn and Scientology attorneys Cooley and Heller whereby they agreed to indemnify Flynn if the Court of Appeal reversed Armstrong I and they retried the case and won. (1255-56)

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[5] Said stipulation, signed by Michael Flynn on Armstrong's behalf and by John Peterson and Michael Hertzberg for Scientology and Mary Sue Hubbard, states: "The Church of Scientology of California, Mary Sue Hubbard, and Gerald

Moreover, prior to and at the time of the settlement Armstrong was not aware of the side agreements between his lawyers and the lawyers for the organization that considered Gerald Armstrong as their enemy! (712-13, 715; 771-72)

On December 18, 1986, the Court of Appeal dismissed appeal No. B005912 as premature because Armstrong's cross-complaint remained to be tried. (1260-73) [6]

On January 30, 1987, Scientology filed an Unopposed Motion to Withdraw Memorandum of Intended Decision in Armstrong I. (1279-83) which Judge Breckenridge denied. (1285) Scientology then filed its second appeal in Armstrong I. (1287) On July 29, 1991, the Court of Appeal affirmed Judge Breckenridge's decision. Church of Scientology of California v. Armstrong (1991) 232 Cal.App.3d 1060, 283 Cal.Rptr. 917.

F. Scientology's Post Settlement Breaches

1. The Corydon "Dead Agent" Pack

In 1987, less than one year after the agreement was signed,

Armstrong, by and through their undersigned counsel, hereby stipulate that in any retrial ordered by any appellate court in Church of Scientology of California v. Gerald Armstrong, LASC No. 420153, the total damages awarded to the Plaintiff Church of Scientology of California and Plaintiff in Intervention Mary Sue Hubbard, combined for any and all causes of action, shall not exceed twenty five thousand and one dollars ($25,001.00)."

[6] The Court of Appeal would not have been advised of the resolution of the underlying Cross-Complaint in Armstrong I - on the existence of which it based its order of dismissal of the appeal - because the fate of said appeal was the subject of Paragraphs 4-A and 4-B of the secret agreement.

Scientology distributed a "dead agent" [7] pack which included an attack on Armstrong. It stated:

> "Corydon has used a description of the RPF provided by Gerry Armstrong, among others. Armstrong's description in this book, however, is completely contrary to his own previous sworn affidavit about the RPF. (Gerry Armstrong's description of the RPF in Corydon's book can also be viewed in light of Armstrong's numerous false claims and lies on other subject matters.)"

(1504) (Emphasis added.)

2. Scientology's Declarations In The Miller Litigation

In October, 1987, Scientology representative Kenneth Long executed five affidavits in Church of Scientology of California v. Miller, High Court of Justice, Chancery Division, No. 1987 C. No. 6140, wherein Long solely discussed his characterizations of Armstrong's activities that had been at issue in the Armstrong I litigation, and thus included within the scope of the settlement agreement. (See Appendix pp. 1506-23; 1525-44; 1546-50, 1555-62, 1564-70)

Long's third affidavit falsely charged that:

> Gerald Armstrong has been an admitted agent provocateur of the U.S. Federal Government who planned to plant forged documents in [Scientology's] files which would then be "found" by Federal officials in subsequent investigation as evidence of criminal activity. (1549)

In another affidavit filed in the Miller case on October 5, 1987, Sheila M. Chaleff also falsely stated:

> Mr. Armstrong is known to me to be a US government informant who has admitted on video tape that he intended to plant

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[7] "A 'dead agent' is a concept created by Hubbard in which an agent who is supposedly spreading stories about you, a lie, an untruth in his story is found. And that is documented. [¶] And then that documented fact is circulated to all of the people to whom the agent has communicated, and then he will become essentially dead, he will be killed by those people who have earlier trusted him. So you've destroyed his credibility and as an agent he is dead. [¶] And this pack of materials was a dead agent pack put out to dead agent Bent Corydon. Bent Corydon had written a book about Hubbard, and this is a pack of materials to discredit Bent Corydon." (791)

> forged documents within the Church of Scientology and then using the contents to get the Church raided where these forged documents would be found and used against the Church.

(1553)

3. Heller's Declaration And Argument In The Corydon Litigation

On or about November 1, 1989, in the case entitled Corydon v. Church of Scientology International, Inc., et al., LASC No. C694401, Scientology attorney Lawrence E. Heller filed a Notice of Motion and Motion of Defendant Author Services, Inc. to Delay or Prevent the Taking of Certain Third Party Depositions by Plaintiff. (1294-1305) In his memorandum, Heller discussed the "block settlement" of which the Armstrong agreement was a part:

> One of the key ingredients to completing these settlements, insisted upon by all parties involved, was strict confidentiality respecting: (1) the Scientology ... staff member's experiences within ... Scientology; (2) any knowledge possessed by the Scientology entities concerning those staff members ...; and (3) the terms and conditions of the settlements themselves. Peace has reigned since the time the interested parties entered into the settlements, all parties having exercised good faith in carrying out the terms of the settlement, including the obligations of confidentiality. [Original emphasis.]

(1297) In his sworn declaration, attorney Heller testified:

> I was personally involved in the settlements which are referred to in these moving papers which transpired some two and one-half years ago. . . . a "universal settlement" was ultimately entered into between the numerous parties. The universal settlement provided for non-disclosure of all facts underlying the litigation as well as non-disclosure of the terms of the settlements themselves. **The non-disclosure obligations were a key part of the settlement agreements insisted upon by all parties involved.** [Original emphasis.]

(1301-02)

4. Scientology's Complaint Against The IRS

On August 12, 1991, Scientology filed a complaint styled Church of Scientology International v. Xanthos, et al., in United States District Court, Central District of California, No. 91-4301-SVW(Tx). (1307-47) Therein, Scientology stated:

> The infiltration of [Scientology] was planned as an undercover operation by the LA CID along with former [Scientology] member Gerald Armstrong, who planned to seed [Scientology] files with forged documents which the IRS could then seize in a raid. The CID actually planned to assist Armstrong in taking over the [Scientology] hierarchy which would then turn over all [Scientology] documents to the IRS for their investigation.

(1320)

5. The Aznaran Litigation

On or about August 26, 1991, Scientology filed its Supplemental Memorandum in Support of Defendants' Motion to Dismiss Complaint with Prejudice in Aznaran v. Church of Scientology of California, et al. United States District Court, Central District of California, No. CV-88-1786-JMI(Ex). (1349-59) Therein, a Scientology attorney stated that in 1984 Armstrong was

> "plotting against ... Scientology ... and seeking out staff members who would be willing to assist him in overthrowing [Scientology] leadership. [Scientology] obtained information about Armstrong's plans and, through a police-sanctioned investigation, provided Armstrong with the "defectors" he sought. On November 30, 1984, Armstrong met with one Michael Rinder, an individual whom Armstrong thought to be one of his "agents" (but who in reality was loyal to [Scientology]). In the conversation, recorded with written permission from law enforcement, Armstrong stated the following in response to questions by Mr. Rinder as to whether they had to have actual evidence of wrongdoing to make allegations in Court against [Scientology's] leadership . . .
>
> (Ex. E, Declaration of Lynn R. Farney, ¶ 6.) With such a criminal attitude, Armstrong fits perfectly into Yanny's game plan for the Aznaran case."

(1353-54)

Armstrong was cleared by the Los Angeles District Attorney after a thorough - and Scientology generated - investigation. (1576-87)

G. Armstrong's Post Settlement Breaches

Scientology's position at the hearing below was that Armstrong violated paragraphs 7-G and 7-H of the settlement agreement. (81-82) The violations were predicated upon the facts that Armstrong had worked for two days in the office of Joseph A. Yanny and had executed two declarations to be filed in the Aznaran case (122-23; 128; 136-38), had later executed a declaration on Yanny's behalf that was filed in Religious Technology Center v. Yanny, LASC No. BC 033035, (124-34), and had worked as a paralegal for Ford Greene in the Aznaran case (143-45; 159-64; 169) in which Armstrong filed another declaration on the Aznarans' behalf. (147-57; RT 5/27/92 at 47)

LEGAL ARGUMENT

II. THE INJUNCTION SHOULD BE DISSOLVED

A. STANDARD OF REVIEW

1. Abuse Of Discretion

> "'[T]rial courts should evaluate two interrelated factors when deciding whether or not to issue a preliminary injunction. The first is the likelihood that the plaintiff will prevail on the merits at trial. The second is the interim harm that plaintiff is likely to sustain if the injunction were denied as compared to the harm that the defendant is likely to suffer if the preliminary injunction were issued. [Citations.]' (IT Corp v. County of Imperial (1983) 35 Cal.3d 63, 69-70.) 'On appeal, the question becomes whether the trial court abused its discretion in ruling on *both* factors.' (Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, 286-87.)"

Ketchens v. Reiner (1987) 194 Cal.App.3d 470, 474.

Just as when a claim involves a facial attack on the constitutionality of an ordinance enforced by an injunction, the reviewing court's consideration of whether the trial court abused its discretion as to the likelihood of the plaintiff's prevailing on the merits can invoke a determination of the constitutionality of the contractual provisions injunctively enforced. Id.

"The action of the state courts and of judicial officers in their official capacities is to be regarded as action of the State within the meaning of the Fourteenth Amendment." Shelley v. Kraemer (1918) 334 U.S. 1, 13. Included within the scope of state action is that which abrogates First Amendment rights. Id.

at 17.

Indeed, the appellate court can proceed to determine the merits of a facial constitutional attack without analyzing whether the trial court abused its discretion under the traditional two-part test. Cohen, supra, 40 Cal.3d at 287; Palos Verdes Shores Mobile Estates, Ltd. v. City of Los Angeles (1983) 142 Cal.App.3d 362, 368; Ortiz v. Woods (1982) 129 Cal.App.3d 672, 676; North Coast Coalition v. Woods (1980) 110 Cal.App.3d 800, 804-05. As Justice Ashby has explained:

> Occasionally, however, the likelihood of prevailing on the merits depends upon a question of pure law rather than upon evidence to be introduced at a subsequent full trial . . . If such a question of pure law is presented, it can sometimes be determinative over the other factor, for example, when the defendant shows that the plaintiff's interpretation is wrong as a matter of law and thus the plaintiff has no possibility of success on the merits.

Bullock v. City & County of San Francisco (1990) 221 Cal.App.3d 1072, 1094.

As will be seen below, based upon the facts set forth above, the case at bar can be resolved in this court on its merits.

2. The Constitutionality Of The Contractual Terms Enforced By Injunction Is Susceptible Of De Novo Review

The interpretation of a written document is a question of law, not of fact. In the absence of conflicting evidence, a reviewing court must independently interpret the written instrument. Parsons v. Bristol Development Co. (1965) 62 Cal.2d 861, 866. Thus, the interpretation of a written instrument presents a question of law to be decided de novo by an appellate court. Broffman v. Newman (1989) 213 Cal.App.3d 252, 257.

> "Even where extrinsic evidence was offered in the trial court, a reviewing court is not bound by the trial court's findings if the extrinsic evidence is not in conflict, is not substantial, or is inconsistent with the only interpretation to which the instrument is reasonably susceptible."

Okun v. Morton (1988) 203 Cal.App.3d 805; SCLC v. Al Malaikah

Auditorium Co. (1991) 230 Cal.App.3d 207, 219.

Since, below, Armstrong did not contest his actions which Scientology claimed were breaches of the settlement agreement, and since Scientology did not contest the truth of Armstrong's characterizations of its actions or those of Armstrong's former counsel, Michael Flynn, there is no conflicting evidence. Thus, this case is susceptible of de novo review.

B. The Preliminary Injunction

Judge Sohigian ordered the preliminary injunction as follows:

> Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:
>
> Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.
>
> The court does not intend by the foregoing to prohibit defendant Armstrong from : (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order." (1715)

III. THE ISSUANCE OF AN INJUNCTION IS AN UNCONSTITUTIONAL PRIOR RESTRAINT WHICH IS PREDICATED UPON THE SUPPRESSION OF THE CONTENT OF ARMSTRONG'S SPEECH

A. Enforcement By Injunction Violates Armstrong's First Amendment Rights

The First Amendment right to free speech is applicable to the states through the Fourteenth Amendment. Gitlow v. New York (1925) 268 U.S. 652, 666. The U.S. Supreme Court has stated that "Prior restraints on speech and publication are the least tolerable infringement on First Amendment rights." Nebraska Press Association v. Stuart (1976) 427 U.S. 539, 559. Thus, "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." Elrod v. Burns (1976) 427 U.S. 347, 373-74, 49 L.Ed.2d 547; C.B.S., Inc. v. U.S. District Court (9th Cir. 1984) 729 F.2d 1174, 1177. An injury is irreparable only if it cannot be undone through monetary remedies. Cate v. Oldham (11th Cir. 1983) 707 F.2d 1176, 1189. "Under our constitutional system prior restraints, if permissible at all, are permissible only in the most extraordinary of circumstances." C.B.S., 729 F.2d at 1183. Therefore, prior restraint on expression comes with a "heavy presumption" against constitutional validity. Organization For A Better Austin v. Keefe (1971) 402 U.S. 415, 419. In addition, the Supreme Court's "decisions involving associational freedoms establish that the right of association is a 'basic constitutional freedom' [citation] that is 'closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society.'" Buckley v. Valeo (1976) 424 U.S. 1, 25.

The effect of the injunction issued below is to prevent Armstrong both from freely speaking with the class of people who have been injured and harmed by Scientology, as well as associating with them. Under the same principles employed by Judge Sohigian a rape victim could be enjoined from associating and communicating with other rape victims because she signed a gag agreement with her attacker. It makes no sense that a criminal organization [8] can buy the silence of its victims and then use the power of the judiciary to enforce it.

> Even where individuals have entered into express agreements not to disclose certain information, either by consent agreement [citation]; or by an employment contract and secrecy oath [citation], the courts have held that judicial orders enforcing such agreements are prior restraints implicating First Amendment rights.

In Re Halkin (D.C. Cir. 1979) 598 F.2d 176, 190.

Professor Melville B. Nimmer, in Freedom of Speech: A Treatise on the First Amendment (1984) put the value of freedom of speech and thought as follows:

> But it is not just the search for political truth for which freedom of speech is a necessary condition. The search for all forms of "truth," which is to say the search for all aspects of knowledge and the formulation of enlightened opinion on all subjects is dependent upon open channels of communication. Unless one is exposed to all the data on a given subject it is not possible to make an informed judgement as to which "facts" and which views deserve to be accepted. If any governmental body, be it a legislative body, a censorship board, the police department or a court of law, decides that **the public should not have access to some of the data on any given topic because the communication of such data will prove injurious in some manner, to that extent the public's ability to make an informed judgement on such topic is crippled by a distortion of the data before it.**

M.B. Nimmer, Freedom of Speech: A Treatise on the First Amendment (1984) § 1.02[A] p. 1-7.

It is precisely such a distortion as identified by Professor Nimmer that the injunction has engendered by the enforcement of the settlement agreement. Ironically, the trial court realized that the injunction dealt with the suppression of the content of Armstrong's speech.

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[8] See, United States v. Heldt (1981) 668 F.2d 1238, 1247, cert. denied (1982) 102 S.Ct. 1971; and Appendix pp. 492-93, 738-40, 996-97, 1000-01, 1045-46.

> . . . The information that's being suppressed in this case, however, is information about extremely blame-worthy behavior of the plaintiff which nobody owns; it is information having to do with the behavior of a high degree of offensiveness and behavior which is meritorious in the extreme.
>
> It involves abusing people who are weak. It involves taking advantage of people who for one reason or another get themselves enmeshed in this extremist view in a way that makes them unable to resist it apparently. It involves using techniques of coercion.

(1700)

Judge Sohigian recognized, moveover, that in addition to being malevolent, Scientology also acts dishonestly:

> There appears to be in the history of their behavior a very, very substantial deviation between their conduct and standards of ordinary, courteous conduct and standards of ordinary, honest behavior. They're just way off in a different firmament . . . They're the kind of -- it's the kind of behavior which makes you sort of be sure you cut the deck and be sure you've counted all the cards. If you're having a friendly poker game you'd make sure to count all the chips before you dealt any cards.

(1701)

The injunction at issue prohibits Armstrong from exercising his right to speak on the basis of content, that is, unless Armstrong is subpoenaed, he may not speak on the subject of Scientology or L. Ron Hubbard. Such content control is, however, anathema to our constitutional scheme. It allows an organization which abuses "people who are weak" by the employment of "techniques of coercion" to silence one of the most effective and knowledgeable individuals able to articulate how Scientology affects individuals "in a way that makes them unable to resist it apparently."

> [A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, or its content. [Citations.] To permit the continued building of our politics and culture, and to assure self-fulfillment for each individual, our people are guaranteed the right to express any thought, free from

> government censorship. The essence of this forbidden censorship is content control. Any restriction of expressive activity because of its content would completely undercut the 'profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open. [Citation.]

Police Department v. Mosley (1972) 408 U.S. 92, 96.

The injunction enforcing Scientology's settlement provisions is the most blatant form of content control. In light of the evidence before the trial court, it is clear that the public has a substantial interest in learning the truth about Scientology from Gerald Armstrong.

Indeed, in the litigation in America concerning Russell Miller's book, Bare-Faced Messiah (1987 Penguin Books) [9] Judge Leval wrote:

> Hubbard is unquestionably a figure of legitimate public concern. As the founder of a religion drawing vast numbers of adherents, as the author of instructive books which have sold millions of copies, and as a figure who at times in his life sought a high degree of publicity and at other times sought seclusion and secrecy, he is a subject of great public interest. If it is arguable (which I do not judge)

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[9] Not only was Bare-Faced Messiah the litigation in which the Long Affidavits were filed concerning Armstrong (1506-70), the preface of the book was dedicated almost entirely to Armstrong who is quoted as saying:

> "I realized I had been drawn into Scientology by a web of lies, by Machiavellian mental control techniques and by fear. The betrayal of trust began with Hubbard's lies about himself. His life was a continuing pattern of fraudulent business practices, tax evasion, flight from creditors and hiding from the law. He was a mixture of Adolf Hitler, Charlie Chaplin and Baron Munchausen. In short, he was a con man."

Bare-Faced Messiah, at pp. 5-6. This man is now silenced by an injunction which allows Scientology to say what it wants when it wants regarding him in all its litigations while he can only respond if subpoenaed to testify, or face contempt and possible jailing. (The court is requested to take judicial notice of the fact that an OSC re Contempt is currently set for hearing below on February 16, 1993.)

> that his career and the Scientology religion have been advanced through deception, this is certainly a subject appropriate for critical exploration.

New Era Publications International v. Henry Holt and Company, Inc. (1988 S.D.N.Y.) 695 F.Supp. 1493, 1506.

B. Enforcement By Injunction Violates The Public's First Amendment Rights

The First Amendment values at issue are not limited to Armstrong. They include the American public as well.

> The freedom of speech and of the press, which are secured by the First Amendment against abridgment by the United States, are among the personal rights and liberties which are secured to all persons by the Fourteenth Amendment by a state. [¶] The safeguarding of these rights to the ends that men may speak as they think on matters vital to them and that falsehoods may be exposed through the process of education and discussion is essential to free government. Those who won our independence had confidence in the power of free and fearless reasoning and communication of ideas to discover and spread political and economic truth. Noxious doctrines in those fields may be refuted and their evil averted by the courageous exercise of the right of free discussion. Abridgment of freedom of speech and of the press, however, impairs those opportunities for public education that are essential to the power of correcting error through the processes of popular government.

Thornhill v. State of Alabama (1940) 310 U.S. 88, 95. (Emphasis added.)

Since the goal of the First Amendment is "producing an informed public capable of conducting its own affairs," Red Lion Broadcasting v. F.C.C. (1969) 395 U.S. 367, 392, "[t]he protection of the public requires not merely discussion, but information." New York Times v. Sullivan (1964) 376 U.S. 254, 272. Thus, the mark at which the First Amendment aims is "the widest possible dissemination of information from diverse and antagonistic sources." Associated Press v. United States 326 U.S. 1, 20.

Since the "First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others," City Council v. Taxpayers for Vincent

(1984) 466 U.S. 789, 804, it seeks to "preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance the monopolization of that market, whether it be by Government itself or a private licensee." Red Lion, 395 U.S. at 390.

It is precisely what the First Amendment forbids that the trial court has done. Scientology is assisted in suppressing the truth known by Armstrong so that it can monopolize and inhibit the "marketplace of ideas" where the American public will judge it. By judicial enforcement of the settlement agreement, free speech through the medium of litigation, on issues critically affecting the public, through Gerald Armstrong, is censored. Thus, Scientology will continue to victimize "weak people" with relative impunity. This is intolerable.

Scientology apparently bought Armstrong's right to free speech, but it cannot get the judiciary to do the dirty work of imposing prior restraints for it so that it can violate the rights of others with a minimization of accountability for the consequences of its conduct.

> "If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence."

Whitney, 274 U.S. at 377. "Speech concerning public affairs is more than self-expression; it is the essence of self-government. It is the right of the public to receive suitable access to social, political, aesthetic, moral and other ideas and experiences." Ibid. The scope of the First Amendment "goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from which the members of the public may draw." First National Bank of Boston v. Bellotti (1978) 435 U.S. 765, 783. The First Amendment protects the public constitutional interest in receiving information. Kleindienst v. Mandel (1972) 408 U.S. 753, 762-63.

> Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.

Buckley, supra, 424 U.S. at 67.

The trial court's muting of Armstrong is the enforced deafening of the public. It is wrong to allow a criminal organization to buy the silence of its greatest critic, particularly in litigation. The content of speech of the nature at issue in this case cannot be sacrificed on the altar of settlement. Such would be an affront to democracy.

C. Enforcement By Injunction Violates Equal Protection Because It Creates Classes of Litigants Predicated Upon A Classification Based Upon Wealth

The trial court treats some speech on the subject of Scientology differently than others. Thus, this Court must address the injunction in terms of the Equal Protection Clause of the Fourteenth Amendment. The injunction affects Armstrong's right to freely speak through the medium of litigation. This is expressive conduct, speech. Moreover, it does so by a classification formulated in terms of the content of his speech, that is, the prohibition is tied to the subject of L. Ron Hubbard and Scientology. The injunction creates other classifications regarding Armstrong's right to testify. Under oath pursuant to subpoena he may, but by declaration he may not. The difference between the two is money. While depositions cost money, declarations don't.

The crucial question is whether there is an appropriate governmental interest that is suitably furthered by the differential treatment.

The central problem with the injunction is that it limits Armstrong's right to speak in adversary proceedings in terms of the content of his speech. Others may speak of Scientology through declarations; he may not. He may speak on all subjects through declarations, but not on Scientology. The operative distinctions are (1) the subject of Scientology, and (2) the money required to purchase speech on that subject.

". . . [A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its subject matter, or its content." Police Department v. Mosley, supra, 408 U.S. at 95.

Necessarily then, under both the Equal Protection Clause, as well as the First Amendment, the government may not select "which issues are worth discussing or debating" by enjoining Armstrong from discussing Scientology in litigation. Id. at 96. "There is an 'equality of status in the field of ideas,' and government must afford all points of view an equal opportunity to be heard." Ibid. A fortiori, this concept applies in litigation.

Even if the state may have a legitimate interest in controlling the content of Armstrong's speech, and it does not, its justifications must be "carefully scrutinized" and must be "tailored to serve a substantial governmental interest." Id. at 99. In view of the fundamental nature of the rights to free speech, and to association, governmental action which may have the effect of curtailing these freedoms is subject to a standard of review of strict scrutiny. Buckley, supra, 424 U.S. at 25.

The only possible governmental interest supporting the injunction is the settlement of lawsuits. This interest, however, does not carry the weight of Armstrong's speech interest, and the requirement that the only way litigants can have access thereto is to purchase it. The value of Armstrong's speech interest is in providing competent proof and information regarding a criminal organization. The state's interest in settling lawsuits, in this case, through an injunction has resulted in the enforcement of a criminal organization's purchase of the suppression of facts harmful to its antisocial goals.

Since the injunction describes impermissible speech, not in terms of time, place and manner, but in terms of the subject matter of Scientology, it "slips from the neutrality of time, place and circumstance into a concern about content." Ibid. Allowing Armstrong's speech to take place only pursuant to subpoena - which costs money - does not sanitize the content-control imposed by the injunction.

> [T]he concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment, which was designed "to secure 'the widest possible dissemination of information from diverse and antagonistic sources,'" and "to assure unfettered exchange of ideas for the bringing about of political and social changes desired by the people." [citations.] The First Amendment's protection against governmental abridgment of free expression cannot properly be made to depend upon a person's financial ability to engage in [or prevent] public discussion.

Buckley, supra, 424 U.S. at 48-49.

Under the circumstances of this case, and in light of Scientology's criminal history, its wholesale violations of citizen's civil rights, and Armstrong's knowledge thereof, settlement does not outweigh censorship. There is a less restrictive alternative - completely free speech - whether by declaration, deposition or at trial.

The right to redress is applicable to the states through the Fourteenth Amendment. DeJonge v. Oregon (1937) 299 U.S. 353, 364-65. The injunction makes a distinction based upon class and wealth. The state is exempted from the requirement to compel Armstrong's testimony - he may speak voluntarily with agents of the state. Ordinary citizens who have been harmed by Scientology, and who do not have the benefit of the power of the state, must pay money in order to obtain what the state can obtain for free. In other words, to obtain Armstrong's knowledge of Scientology, the state is entitled to exercise the constitutional right to redress of grievances for free while an ordinary citizen is restricted from such constitutional exercise of rights based upon wealth because he or she must pay money in order to obtain Armstrong's testimony through expensive deposition, at trial, or both. The government is not permitted to do this. Douglas v. California (1963) 372 U.S. 353; Harper v. Virginia Board of Education (1966) 383 U.S. 663; Boddie v. Connecticut (1971) 401 U.S. 371.

Indeed, of all the circumstances conceivable, it is a vicious irony that a criminal organization, masquerading in the guise of a religion, which "[i]n addition to violating and abusing its own members civil rights, . . . with its 'Fair Game' doctrine has harassed and abused those persons not in the Church whom it perceives as enemies," (474) can require people to pay for evidence which the government can have for free. As stated by Judge Geernaert when Scientology first attempted to enforce the settlement agreement,

> I know we like to settle cases. But we don't want to settle cases and, in effect, prostrate the court system into making an order which is not fair or in the public interest.

(606) The person who really pays for the injunction at issue is the litigant who doesn't have the financing to pay for testimony.

IV. THE INJUNCTION IS UNCONSTITUTIONALLY OVERBROAD AND IMPERMISSIBLY VAGUE AND THEREFORE VOID

> It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume than man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with attendant dangers of arbitrary and discriminatory application. Third, but related, where a vague statute "abut[s] upon sensitive areas of basic First Amendment freedoms," it "operates to inhibit the exercise of [those] freedoms." Uncertain meanings inevitably lead citizens to "steer

> far wider of the unlawful zone . . . than if the boundaries of the forbidden areas were clearly marked."

Grayned v. City of Rockford (1972) 408 U.S. 104, 108-09. An additional reason which supports the void for vagueness rule is that such vagueness encourages erratic application and permits and encourages harsh and discriminatory enforcement, particularly against he who merits the displeasure of the authorities. Papachristou v. City of Jacksonville (1972) 405 U.S. 156, 162, 170; Colautti v. Franklin (1979) 439 U.S. 379, 390.

Judge Sohigian's injunction prohibits Armstrong, and Ford Greene, his attorney, from

> "Voluntarily assisting any person (not a governmental organ or entity) intending to make, . . . press . . . arbitrate, or . . . litigate a claim against ['all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel' (72)] regarding such claim or regarding pressing, arbitrating, or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against ['all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel' (72)]"

The above quoted order is vague and overbroad.

Ford Greene represents the plaintiffs in Aznaran v. Church of Scientology of California, United States District Court, Central District of California, Case No. CV-88-1786-JMI. (159) Were he to comply with the injunction, he would be precluded from representing the Aznarans because he also represents Armstrong. This is a chilling infringement on both the Aznarans' and Armstrong's constitutional right to counsel of their choice. It is an interference with Greene's right to practice law and with Greene's obligation to represent people - who cannot otherwise find counsel willing to face "Fair Game" - against Scientology.

Gerald Armstrong works for Ford Greene. Greene litigates against Scientology. Does Armstrong's employment by Greene constitute assistance within the terms of the injunction? Is Armstrong in violation of the order when he works on non-Scientology cases, because in so helping Greene carry the load Greene can dedicate more time litigating against Scientology? Is Armstrong in violation of the injunction when he answers the phone and somebody suing Scientology is on the other end? If Armstrong orders office supplies some of which will be used in anti-Scientology litigation, is he in violation? If Armstrong handles outgoing Scientology-related mail? Opens an envelope? Licks a stamp? Goes to the post office? Assembles exhibits to a brief opposing a Scientology motion? Signs a proof of service?

How is Armstrong to ascertain what and who are "all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel[?]" (72)

Finally, Armstrong may engage "in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of" the injunction. (1715) Since the injunction is not clear about what Armstrong can or cannot do, however, this provision, too, is vague and unclear. It restricts his employment, and Greene's law practice.

V. **THE INJUNCTION IS VOID SINCE IT IS TOO INDEFINITE AND UNCERTAIN TO BE SPECIFICALLY PERFORMED**

Civil Code section 3390 (5) prohibits enforcement by specific performance of "an agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable." When one seeks to obtain specific performance, "a greater degree or amount of certainty is required in the terms of an agreement which is to be specifically executed in equity than is necessary in a contract which is the basis for an action at law for damages." Long Beach Drug Co. v. United Drug Co. (1939) 13 Cal.2d 158, 88 P.2d 698, 701. Thus, even though a contract might be valid, it is not necessarily specifically enforceable, or the proper subject of a prohibitory injunction due to its intrinsic nature, or due to lack of definiteness. Ibid; Lind v. Baker (1941) 48 Cal.2d 234, 119 P.2d 806, 812; Hunter v. Superior Court (1939) 36 Cal.App.2d 100, 97 P.2d 492, 498.

Even though the trial court rewrote the contract provisions found at 7-G and 7-H of the settlement agreement (81-82), for the reasons discussed above the provisions of the injunction are fraught with uncertainty and therefore not susceptible of specific performance. Thus, there are no "contractual terms which are sufficiently definite to enable the court to know what it is to enforce." Tamarind Lithography Workshop v. Sanders (1983) 143 Cal.App.3d 571, 575; Henderson v. Fisher (1965) 236 Cal.App.2d 468, 477.

The provisions of the injunction are fatally uncertain.

VI. SPECIFIC PERFORMANCE DOES NOT LIE INASMUCH AS IT WOULD REQUIRE PROTRACTED SUPERVISION AND DIRECTION OF THE COURT.

A contract which requires a continuing series of acts and demands cooperation between the parties for successful performance of those acts is not subject to specific performance. Thayler, 255 Cal.App.2d at 303.

> Courts of equity will not decree the specific performance of contracts which, by their terms, stipulate of a succession of acts whose performance cannot be consummated by one transaction inasmuch as such continuing performance requires protracted supervision and direction.

Id. at 255 Cal.App.2d at 304; Whipple Quarry Co. v. L.C. Smith Co. (1952) 114 Cal.App.2d 214, 249 P.2d 854, 855; Lind, 119 P.2d at 813; Hunter, 97 P.2d at 498.

In addition to being overbroad, vague and uncertain, the injunction would require constant supervision to enforce. The court would have to be at the parties' elbow making determinations as to when anything which related to Scientology was sufficiently attenuated therefrom to allow Armstrong to work on it in the course of his employment, or deciding when someone or something was or was not adverse to, or aligned against Scientology. It is an invitation for Scientology to ensconce itself in Greene's law office. It is impossible for the Court to decipher the ambiguities inherent in the injunction. But even if it could be rationally construed, the injunction could never be enforced.

VII. SINCE THERE IS NO MUTUALITY OF REMEDY, SPECIFIC PERFORMANCE WILL NOT LIE

In bilateral contracts, such as the agreement herein, mutuality of obligation and remedy is necessary because of mutual promises. The doctrine requires that the promises on each side must be binding obligations in order to be consideration for each other. Mattei v. Hooper (1958) 51 Cal.2d 119, 122, 330 P.2d 625; Larwin-Southern Calif. v. JGB Inv. Co. (1979) 101 Cal.App.3d 606, 637, 162 Cal.Rptr. 52. In order for the agreement to be obligatory on either party, it must be mutual and reciprocal in its obligations. Harper v. Goldschmidt (1909) 156 Cal. 245, 104 P. 451.

Paragraphs 4-A and 4-B of the agreement prohibit Armstrong from litigating Scientology's complaint against him on appeal while allowing Scientology to litigate the matter in the appellate courts to the extent it desired. (75-76) Paragraph 7-D prohibits Armstrong from speaking to others about Scientology, but does not prohibit Scientology from talking to others about Armstrong. (77-79) Paragraph 7-E requires Armstrong to deliver documents about Scientology to Scientology, but does not require Scientology to deliver to Armstrong documents it possessed concerning him. (79-81) Paragraph 7-G prohibits Armstrong from assisting or cooperating with persons adverse to, or aligned against Scientology, but did not prohibit Scientology from assisting or cooperating with persons who were aligned against or adverse to Armstrong, to wit, the Long Affidavits. Paragraph 7-H prohibits Armstrong from testifying about Scientology, but did not prohibit Scientology from testifying about Armstrong, to wit, the Long Affidavits.

There are two provisions in the agreement that are mutual. One is that Armstrong would dismiss his Cross-Complaint in consideration for a payment of money. The other was in Paragraph 7-I (82) which stated that neither party would say anything about the other in future litigation. It was Armstrong's understanding and intent at the time of the settlement that he would honor the silence and confidentiality provisions of the settlement agreement, and that Scientology would do likewise. (672) As to the former, Scientology obtained what it paid for, and as to the latter, Scientology has consistently breached it. Thus, as to the provisions that Scientology seeks to specifically enforce, specific performance can not be had because there is an absence of mutuality.

VIII. ARMSTRONG HAD NO FREEDOM OF CONSENT

A. Duress

Sections 1569 (1) and (3) of the California Civil Code defines duress as the (1) "[u]nlawful confinement of the person of the party, . . ." or (2) "[c]onfinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive." The cases, however, have established much broader definitions, and consequently, the language of the decisions can rarely be reconciled with the statutory language. For example, in Harlan v. Gladding, McBean & Co. (1907) 7 Cal.App. 49, duress means a condition of mind produced by improper external pressure or influence that practically destroys the free will of a person and causes him to do an act or enter into a contract not of his own volition. In Sistrom v. Anderson (1942) 51 Cal.App.2d 213, duress is effectuated by an unlawful threat which overcomes the will of the person threatened and induces him to do an act that he is not bound to do and would not otherwise have done. Steffen v. Refrigeration Discount Corp. (1949) 91 Cal.App.2d 494, states that the test of duress, at its harshest, is what would have influenced the conduct of a reasonable man. Indeed, the modern tendency is to find duress wherever one, by the unlawful act of another, is induced to make a contract under circumstances which deprive him of the exercise of free will. See Keithley v. Civil Service Board (1970) 11 Cal.App.3d 443; Balling v. Finch (1962) 203 Cal.App.2d 413; Gross v. Needham (1960) 184 Cal.App.2d 446; Lewis v. Fahn (1952) 113 Cal.App.2d 95; Sistrom, 51 Cal.App.2d at 213. Under this standard, duress is to be tested, not by the nature of the threat, but by the state of mind induced in the victim. Balling, 203 Cal.App.2d at 413; Lewis, 113 Cal.App.2d at 95.

In the case at bar, the agreement was made under duress and is, thus, voidable. Specifically, in Paragraph 11-A of the agreement: "The parties to this Agreement acknowledge . . . [t]hat all parties enter into this Agreement freely, voluntarily, knowingly and willingly, without any threats, intimidation or pressure of any kind whatsoever and voluntarily execute this Agreement of their own free will." (84) However, Armstrong testified that he had endured many years of psychological duress and brainwashing from Scientology. Moreover, he described the duress and undue influence to which he was subjected as soon as he had arrived in Los Angeles and was pressured into signing the agreement. (995-1053; see pp. 10-12, supra.)

Accordingly, duress exists to void the agreement. Indeed, Judge Geernaert noted:

> "So my belief is Judge Breckenridge, being a very careful judge, follows about the same practice and if he had been presented with that whole agreement and if he had been asked to order its performance, he would have dug his feet in because that is one of the -- I have seen -- I can't say -- I'll say one of the most ambiguous, one-sided agreements I have ever read. And I would not have ordered the enforcement of hardly any of the terms had I been asked to, even on the threat that, okay, the case is not settled.

(606)

B. Armstrong's Attorney Had A Conflict Of Interest With Both Armstrong And A Number Of The Other Settling Parties

Rule 5-102 of the Rules of Professional Conduct states:

> (A) A member of the State Bar shall not accept professional employment without first disclosing his relation, if any, with the adverse party, and his interest, if any in the subject matter of the employment. A member of the State Bar who accepts employment under this rule shall first obtain the client's written consent to such employment.
>
> (B) A member of the State Bar shall not represent conflicting interest, except with the written consent of all parties concerned.

In the Armstrong settlement, Armstrong was represented by attorney Michael Flynn. Despite an order to do so (1248-49, 1258), the agreement was never placed before the court. (582) Flynn also represented a number of other Scientologists.

Furthermore, Flynn did not put the second settlement agreement (111-16) before the court. In that second settlement agreement the parties acknowledged that they had "been subjected to intense, and prolonged harassment by the Church of Scientology throughout the litigation, and that the value of the respective claims stated therein is measured in part by the length and degree of harassment." (114)

The second secret settlement agreement was entered into by the settling plaintiffs, including Armstrong, and their attorney, Flynn. The egregious conflicts between the plaintiffs and Flynn, and between plaintiffs themselves, are readily apparent from the face of the document. Notwithstanding these facts, the document has only one fleeting reference to consultation with outside counsel. (114) All of these people, including their attorney, had been subjected to the most outrageous deprivations, harassment and intimidation. Each should have been separately represented in the settlement. None were.

Indeed, concerning Armstrong's settlement, attorney Flynn even had a separate side-deal with the Scientology lawyers. If as a result of the settlement term that Armstrong would not oppose any appeal of the Breckenridge Decision, there was a reversal, damages on retrial against Armstrong would be limited to $25,001 payment for which Scientology would indemnify Flynn. This was never disclosed to Armstrong. Additionally, Flynn told Armstrong that he would represent Armstrong in the future against Scientology, if necessary.

The global settlement, and side-agreements, included Flynn, Armstrong's own attorney who had interests diametrically opposed to those of Armstrong and interests diametrically opposed to those of the other settling former Scientologists. Finally, all of the settling parties had interests that were diametrically opposed as among themselves. Each of them, including Flynn, should have been separately represented. Objectively, none of these settling former Scientologists were capable of representing themselves in this situation. They each required legal counsel with undivided loyalty. What they got, however, was legal counsel who had conflicts between each of his clients and between himself and his clients. No one disputes the Herculean efforts of Michael Flynn against Scientology, but Scientology eventually destroyed Flynn's will to fight. However well he had represented these clients prior to the settlement, he breached all applicable ethical rules in representing himself and all of the settling parties in this global agreement. It was a mammoth conflict of interest for Michael Flynn to represent each of the settling parties in a settlement in which he himself was the largest beneficiary.

Clearly, Armstrong entered the settlement without the benefit of objective counsel. (752-56)

C. Fraud

1. Actual Fraud Exists

The elements of actual fraud, whether in contract or in tort, have been stated as follows: There must be (1) a false representation or concealment of a material fact (or, in some cases, an opinion) susceptible of knowledge, (2) made with knowledge of its falsity or without sufficient knowledge on the subject to warrant a representation, (3) with the intent to induce the person to whom it is made to act upon it; and such person must (4) act in reliance upon the representation (5) to his damage. Harding v. Robinson (1917) 175 Cal. 534, 538; Wolfe v. Severns (1930) 109 Cal.App. 476, 485; 1 Witkin, Summary of California Law § 393.

The act constituting actual fraud may be concealment or "any other act fitted to deceive." Specifically, "[t]he suppression of that which is true, by one having knowledge or belief of the fact" is actual fraud. Civil Code § 1572 (3); Williamson & Vollmer Engineering v. Sequoia Ins. Co. (1976) 64 Cal.App.3d 261, 273; 1 Witkin, Summary of California Law, § 398. The Restatement points out that concealment is an affirmative act, equivalent to a misrepresentation (Comment a), and that it usually consists either in actively hiding something from the other party, or preventing him making an investigation that would have disclosed the true facts (Comment b).

The purpose of the catch-all statement, "any other act" is suggested in Wells v. Zenz (1927) 83 Cal.App. 137.

> "Fraud is a generic term which embraces all the multifarious means which human ingenuity can devise and are resorted to by one individual to get an advantage over another. No definite and invariable rule can be laid down as a general proposition defining fraud, and it includes all surprise, trick, cunning, dissembling, and unfair way by which another is deceived. The statutes of California expressly provide that . . . any other act fitted to deceive is actual fraud."

In this case, actual fraud in both the form of concealment and active misrepresentation exist.

At the time of the settlement Flynn told Armstrong "that in the event that anything happened he would still be there to defend me." (768) The truth, however, was that Flynn had an agreement with Scientology never to represent anyone against the organization again. [10] Flynn even refused to give Armstrong a declaration to use in his own litigation. (767-68)

None of the well over a dozen plaintiffs involved were told that the agreement was not reciprocal, i.e., that Scientology could say whatever it wanted about the signing plaintiffs following the settlement, but that the plaintiffs, including Armstrong, must remain silent. (91, 667-68) "It was [his] understanding and intention at the time of the settlement that [he] would honor the silence and confidentiality conditions of the settlement agreement, and that the organization had agreed to do likewise." (672) Similarly, Flynn failed to disclose to Armstrong the existence of the side agreement for indemnity. (771, 1253, 1255)

Mr. Flynn knew all these material facts yet concealed them from the signing plaintiffs, including Armstrong, with the intent to induce the plaintiffs, including Armstrong, to sign the agreement. In turn, Armstrong, and the other plaintiffs signed the agreements in reliance upon Mr. Flynn's representations, to their detriment. Accordingly, actual fraud exists to void the agreement.

2. Constructive Fraud Exists

Constructive fraud consists of (1) "any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of anyone claiming under him;" (2) "any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud." Civil Code § 1573. Where a confidential or fiduciary relationship exists between the parties, the failure of the person in whom confidence is placed to disclose material facts within his knowledge may constitute constructive fraud within the meaning of Civil Code § 1573 (1). Ford v. Shearson Lehman American Express (1986) 180 Cal.App.3d 1011, 1020; Main v. Merrill Lynch (1977) 67 Cal.App.3d 19, 32; McFate v. Bank of America (1932) 125 Cal.App. 683, 686.

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[10] This is a violation of Rule of Professional Conduct 1-500 (A) which states: "A member shall not be a party to or participate in offering or making an agreement, whether in connection with the settlement of a lawsuit or otherwise, if the agreement restricts the right of a member to practice law."

In the present case, constructive fraud also exists. Flynn, who had a fiduciary relationship as their attorney with the signing plaintiffs, including Armstrong, failed to disclose material facts within his knowledge to the signing plaintiffs prior to their signing the agreement. The failure of Flynn, in whom confidence was placed, to disclose such material facts constitutes constructive fraud, thus, voiding the agreement.

IX. TO THE EXTENT THAT THE INJUNCTION IS IN RESTRAINT OF TRADE, IT IS INVALID.

Apparently, Armstrong is enjoined from working for Ford Greene, but only on Scientology cases. Such is an unreasonable restraint of trade.

Business and Professions Code section 16600 provides that, subject to exceptions contained in its chapter, "every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void." The Restatement 2d, Contracts § 186 states: "(1) A promise is unenforceable on grounds of public policy if it is unreasonably in restraint of trade. (2) A promise is in restraint of trade if its performance would limit competition in any business or restrict the promisor in the exercise of a gainful occupation."

Specifically, Armstrong is employed by Ford Greene. The injunction restricts Armstrong's acts by working for Mr. Greene.

Although covenants not to compete may be enforceable if for a limited time period, such a covenant in perpetuity is not enforceable. Thus, the lifetime prohibition of Armstrong working as a paralegal is void.

X. SCIENTOLOGY HAS NOT MET ITS BURDEN WHICH WOULD ENTITLE IT TO INJUNCTIVE RELIEF BECAUSE IT IS NOT ENTITLED TO THE EQUITABLE REMEDY OF SPECIFIC PERFORMANCE

Applying Civil Code section 3391 to the circumstances of this case, Armstrong cannot be compelled to specifically perform the agreement. [11]

An injunction cannot be granted to prevent the breach of a contract, the performance of which would not be specifically enforced. Thayer Plymouth Center, Inc. v. Chrysler Motors Corp. (1967) 255 Cal.App.2d 300, 304; Eichholtz v. Nicoll (1944) 66 Cal.App.2d 67, 151 P.2d 664, 666. Thus, it is rote that "equity will not lend its aid to enforce contracts which upon their face are so manifestly harsh and oppressive as to shock the conscience; it must be affirmatively shown that such contracts are fair and just." Jacklich v. Baer (1943) 57 Cal.App.2d 684, 135 P.2d 179, 183. The rationale for this rule is grounded in a common sense recognition of the rules of fair play.

> It is said . . . that the doctrine that he who seeks equity must do equity means that the party asking the aid of the court must stand in a conscientious relation to his

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[11] In full, Civil Code section 3391 states: "WHAT PARTIES CANNOT BE COMPELLED TO PERFORM. Specific performance cannot be enforced against a party to a contract in any of the following cases:

1. If he has not received an adequate consideration for the contract;
2. If it is not, as to him, just and reasonable;
3. If his assent was obtained by the misrepresentation, concealment, circumvention, or unfair practices of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled; or
4. If his assent was given under the influence of mistake, misapprehension, or surprise, except that where the contract provides for compensation in the case of mistake, a mistake within the scope of such provision may be compensated for, and the contract specifically enforced in other respects, if proper to be so enforced.

> adversary; that the transaction from which his claim arises must be fair and just and that the relief itself must not be harsh and oppressive upon the defendant. And that specific performance will always be refused when a contract itself is unfair, one-sided, unconscionable, or affected by any other such inequitable feature, and when specific performance would be oppressive upon the defendant, or would prevent the enjoyment of his own rights, or would in any other manner work injustice.

Id, 135 P.2d at 184; Chrittenden v. Hansen (1943) 59 Cal.App.2d 56, 138 P.2d 37, 38; Quan v. Kraseman (1948) 84 Cal.App.2d 550, 191 P.2d 16, 17; Eichholtz, supra.

Scientology cannot prove the fairness and justness of the agreement it seeks to enforce. There is nothing fair about Scientology being able to abuse its right to Free Speech by slandering Armstrong, and then being able to seek a contempt citation and have Armstrong thrown in jail for simply exercising his First Amendment right to tell the truth in the face of Scientology's lies about him.

XI. THE SETTLEMENT AGREEMENT SEEKS TO SUPPRESS EVIDENCE OF JUDICIALLY CREDITABLE FACTS WHICH DISCREDIT THE SCIENTOLOGY ORGANIZATION; SUCH VIOLATES PUBLIC POLICY AND RENDERS THE CONTRACT VOID.

What Scientology is seeking to do is to remove Armstrong, and all others like him, [12] from playing any role in the truth-seeking process, whether such process be found in competition in the public marketplace of ideas, or in the truth-seeking forum provided by the judiciary. By eliminating those who are knowledgeable of its history and practices, Scientology seeks, quite literally, to shape public opinion and skew judicial decision-making by writing its own script. Thus, with no regard for the truth, Scientology may rest secure in the knowledge that it has purchased the silence of witnesses adverse to it. [13]

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[12] For example, Scientology unsuccessfully attempted to enforce identical settlement agreements against the Aznarans. See 190-445 for motion for preliminary injunction. For settlement agreements, see 303-316. For an example of the type of information in the Aznaran case that Scientology sought to suppress, see Declaration of Vicki Aznaran at 417-430. It is remarkably similar to Armstrong's Declarations.

The consideration of a contract must be lawful. Civil Code section 1607. If any part of the consideration is unlawful the entire contract is void. Civil Code section 1608. Consideration is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals. Civil Code section 1667. The object of the contract is the thing which it is agreed, on the party receiving the consideration, to do or not to do. Civil Code section 1595. The object must be lawful when the contract is made. Civil Code section 1596. Whether or not a contract in a given case is contrary to public policy is a question of law to be determined from the circumstances of each particular case. Bovard v. American Horse Enterprises (1988) 201 Cal.App.3d 832, 838; Kallen v. Delug (1984) 157 Cal.App.3d 940, 951; Russell v. Soldinger (1976) 59 Cal.App.3d 633, 642.

It is a fundamental rule of construction of contracts that all applicable laws in existence when an agreement is made, which laws the parties are presumed to know and have in mind, necessarily enter into the contract and form a part of it without any stipulation to that effect, as if they were expressly referred to and incorporated in the agreement. People v. Hadley

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[13] Such is precisely the type of agreement that current Senate Bill No. 711 seeks to outlaw. As amended January 27, 1992, Senate Bill No. 711 states:

> Notwithstanding any other provision of law, as a matter of public policy, in actions based on fraud, or based upon personal injury . . . no part of any confidentiality agreement, settlement agreement, stipulated agreement, or protective order to keep from public disclosure information that is evidence of fraud shall be entered or enforceable upon settlement or conclusion of any litigation or dispute concerning the fraud . . .

(1967) 257 Cal.App.2d Supp. 871, 881.

"Agreements to suppress evidence have long been held void as against public policy, both in California and in most common law jurisdictions." Williamson v. Superior Court (1978) 21 Cal.3d 829, 836-37. In Brown v. Freese (1938) 28 Cal.App.2d 608, the California Court of Appeal adopted section 557 of the Restatement of the Law of Contracts prohibiting as illegal those agreements which sought to suppress the disclosure of discreditable facts. The court stated:

> A bargain that has for its consideration the nondisclosure of discreditable facts . . . is illegal. . . . In many cases falling within the rule stated in the section the bargain is illegal whether or not the threats go so far as to bring the case within the definition of duress. In some cases, moreover, disclosure may be proper or even a duty, and the offer to pay for nondisclosure may be voluntarily made. Nevertheless the bargain is illegal. Moreover, even **though the offer to pay for nondisclosure is voluntarily made and though there is no duty to make disclosure or propriety in doing so, a bargain to pay for nondisclosure is illegal.** [Emphasis added.]

Brown 28 Cal.App.2d at 618.

In Allen v. Jordanos' Inc. (1975) 52 Cal.App.3d 160, 125 Cal.Rptr. 31, the court did not allow a breach of contract action to be litigated because it involved a contract that was void for illegality. In Allen, plaintiff filed a complaint for breach of contract which he subsequently amended five times. Plaintiff, a union member, was entitled by his collective bargaining agreement to have a fair and impartial arbitration to determine the truth or falsity of the allegations against him of theft and dishonesty. The allegations of the amended complaints stated that there had been an agreement between the parties whereby defendant laid off plaintiff, defendant's employee, and allowed plaintiff to receive unemployment benefits and union benefits. "Defendants also agreed that they would not communicate to third persons, including prospective employers, that plaintiff was discharged or resigned for dishonesty, theft, a bad employment attitude and that defendants would not state they would not rehire plaintiff." Id. at 163. Plaintiff alleged there had been a breach in that defendants had communicated to numerous persons, including potential employers and the Department of Human Resources and Development, that plaintiff was dishonest and guilty of theft and had resigned for fear of being discharged for those reasons, that plaintiff had a bad attitude and that defendants would not rehire him. Plaintiff alleged that as a result of the breach he suffered a loss of unemployment benefits, union benefits and earnings. The court held that the plaintiff had bargained for an act that was illegal by definition. It stated:

> The nondisclosure was not a minor or indirect part of the contract, but a major and substantial consideration of the agreement. A bargain which includes as part of its consideration nondisclosure of discreditable facts is illegal. (See Brown v. Freese, 28 Cal.App.2d 608, 618 [83 P.2d 82.].) It has long been hornbook law that consideration which is void for illegality is no consideration at all. [Citation.]

Id. 52 Cal.App.3d at 166.

The object of a contract must be lawful. Civil Code sections 1550, 1596. If the contract has a single object, and that object is unlawful, the entire contract is void. Civil Code section 1598.

Civil Code § 1668 states:

> All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law.

Since an agreement to suppress evidence or to conceal a witness is illegal, Witkin, § 611 at 550; Penal Code §§ 136, 136.1, and 138; Mary R. v. B. & R. Corp. (1983) 149 Cal.App.3d 308, 196 Cal.Rptr. 871; Tappan v. Albany Brewing Co. (1889) 80 Cal. 570, 571-572, and the combined effect of the "global settlement" has been to remove the availability as witnesses of most former high-ranking Scientologists, [14] such can "lead to subtle but deliberate attempts to suppress relevant evidence." Williamson, 21 Cal.3d at 838.

Thus, where a contract is made either (1) to achieve an illegal purpose, or (2) by means of consideration that is not legal, the contract itself is void. Witkin, Summary of California Law (9th Ed. 1987) Vol. 1, Contracts, § 441 at 396.

There are two reasons for the rule prohibiting judicial enforcement, by any court, of illegal contracts.

> [T]he courts will not enforce an illegal bargain or lend their assistance to a party who seeks compensation for an illegal act [because] . . . Knowing that they will receive no help form the courts . . . the parties are less likely to enter into an illegal agreement in the first place.

Lewis & Queen, 48 Cal.2d at 149 [308 P.2d at 719].

> This rule is not generally applied to secure justice between parties who have made an illegal contract, but from regard for a higher interest - that of the public, whose welfare demands that certain transactions be discouraged. [Emphasis added.]

Owens v. Haslett (1950) 98 Cal.App.2d 829, 221 P.2d 252, 254.

Illegal contracts are matters which implicate public policy. Public policy means "anything which tends to undermine that sense of security for individual rights, whether of personal liberty or private property, which any citizen ought to feel is against public policy." Ibid. Therefore, "[a] contract made contrary to public policy may not serve as the foundation of any action, either in law or in equity, [Citation] and the parties will be left where they are found when they come to court for relief. [Citation.]" Tiedje v. Aluminum Paper Milling Co. (1956) 46 Cal.2d 450, 454.

It is well settled that agreements against public

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[14] See also Appendix pp. 111-16 for enumeration of those individuals settling as part of the package. Note that most were mentioned as witnesses in Judge Breckenridge's opinion (473).

> policy and sound morals will not be enforced by the courts. It is a general rule that all agreements relating to proceedings in court which involve anything inconsistent with [the] full and impartial course of justice therein are void, though not open to the actual charge of corruption.

Eggleston v. Pantages (1918) 103 Wash. 458, 175 P. 34, 36; Maryland C. Co. v. Fidelity & Cas. Co. of N.Y. 71 Cal.App. 492 Fong v. Miller (1951) 105 Cal.App.2d 411, 414. "In other words, where the illegal consideration goes to the whole of the promise, the entire contract is illegal." Witkin, § 429 at 386; Morey v. Paladini (1922) 187 Cal. 727, 738 ["The desire and intention of the parties [to violate public policy] entered so fundamentally into the inception and consideration of the transaction as to render the terms of the contract nonseverable, and it is wholly void."].

Professor Witkin states:

> It is obviously an obstruction of justice to conceal, suppress, falsify or destroy evidence which is relevant and known to be sought or desired for use in a judicial proceeding or an investigation by law officers.

Witkin, California Criminal Law (2d.Ed. 1988) Vol. 2, § 1132, at p. 1311. Such constitutes a crime against public justice because it is designed to intimidate witnesses and prevent them from giving testimony in violation of Penal Code section 136.1.

> The general rule controlling in cases of this character is that where a statute prohibits or attaches a penalty to the doing of an act, the act is void . . . The imposition by statute of a penalty implies a prohibition of the act to which the penalty is attached, and a contract founded upon such act is void.

Smith v. Bach 183 Cal. 259, 262, quoted in Severance v. Knight-Counihan Co. (1947) 29 Cal.2d 561, 177 P.2d 4, 8.

If a court is not able to distinguish between the lawful part of an agreement, and the unlawful part, "the illegality taints the entire contract, and the entire transaction is illegal and unenforceable. Keene v. Harling (1964) 61 Cal.2d 318, 321; Mailand v. Burckle (1978) 20 Cal.3d 367, 384. Assuming arguendo, that the entire agreement is not unenforceable, then the Court must save the good part, and sever and discard the rest. Civil Code section 1599 tells us what to do with a contract which is partially void, and has at least one distinct lawful object, and at least distinct unlawful object. Section 1599 states that the contract is void as to the unlawful objects, and valid as to the lawful objects. [15]

Armstrong proposes that contractual provisions 4-A, 4-B, 7-E, 7-G, 7-H, 7-I, 10, and 18-D are not lawful for the reasons discussed above. Those provisions share the common objective of suppressing credible, judicially tested information which discredits Scientology. In contrast, Paragraphs 1, 2 and 4 have the distinct objective of settling Gerald Armstrong's Cross-Complaint in Armstrong I. Thus, as to the former, the contract is void, while as to the later it is valid.

It has long been the law in California that

> When the transaction is of such a nature that the good part of the consideration can be separated from that which is bad, the Courts will make the distinction, for the . . . law . . . [divides] according to common reason; and having made that void that is against law, lets the rest stand. [Citation]. Thus, the rule relating to severability of partially illegal contracts is that a contract is severable if the court can, consistent with the intent of the parties, reasonably relate the illegal consideration on one side to some specified of determinable portion of the consideration on the other side.

Keene v. Harling (1964) 61 Cal.2d 318, 320-21; Brown v. Freese, supra.

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[15] This principle is recognized in Paragraph 16 of the settlement agreement which states in "the event any provision hereof be unenforceable, such provision shall not affect the enforceability of any other provision thereof." (85)

CONCLUSION

The injunction should be dissolved. The facts are clearly before the court. There are no disputes. Armstrong does not contest the facts which Scientology characterizes as violations. Scientology has not contested the facts preceding, during and following the execution of the settlement agreement. This one-sided agreement is an affront to fair play. Armstrong never contracted to sacrifice his First Amendment rights so that Scientology could spread lies about him - dead agent him - and the only thing he could do to fight back was to be enjoined and ultimately jailed. Armstrong's history of his battle with Scientology belies such an intent.

The preliminary injunction should be dissolved, and the provisions designed to suppress evidence and obstruct justice severed and stricken from the contract.

DATED: January 18, 1993

By:____________________
FORD GREENE and PAUL MORANTZ
Attorneys for Defendant
GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: APPELLANT'S OPENING BRIEF

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

SEE SERVICE LIST

[X] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: January 19, 1993

SERVICE LIST

Supreme Court of California
303 Second Street
South Tower
San Francisco, CA 94107

Clerk, Superior Court
State of California
County of Los Angeles
111 North Hill Street
Los Angeles, CA 90012

Andrew H. Wilson, Esquire
Wilson, Ryan & Campilongo
235 Montgomery Street
Suite 450
San Francisco, CA 94104

Laurie J. Bartilson, Esquire
Bowles & Moxon
6255 Sunset Blvd.
Suite 2000
Los Angeles, CA 90028

Paul Morantz, Esquire
P.O. Box 511
Pacific Palisades, CA 90272

Graham E. Berry, Esquire
Lewis, D'Amato, Brisbois & Bisgaard
221 North Figueroa Street
Suite 1200
Los Angeles, CA 90012

Statutory [illegible]
Today

FILED 2912
3:30 pm
APR - 1 1988
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA OFFICE

Barry Van Sickle
Laurence P. Nokes
Shelley M. Liberto
CUMMINS & WHITE
3737 Birch Street, Fourth Floor
Newport Beach, California 92660
Telephone: (714) 852-1800

Attorneys for Plaintiffs
VICKI J. AZNARAN and RICHARD N. AZNARAN

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT, STATE OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N. AZNARAN,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC.; CHURCH OF SPIRITUAL TECHNOLOGY, INC.; SCIENTOLOGY MISSIONS INTERNATIONAL, INC.; RELIGIOUS TECHNOLOGY CENTER, INC.; AUTHOR SERVICES, INC.; CHURCH OF SCIENTOLOGY INTERNATIONAL, INC.; CHURCH OF SCIENTOLOGY OF LOS ANGELES, INC.; MISSION OFFICE WORLDWIDE; AUTHOR FAMILY TRUST; THE ESTATE OF L. RON HUBBARD; DAVID MISCAVIGE; and NORMAN STARKEY

Defendants.

CASE NO. CV 88-1786-WDK (Ex)

COMPLAINT FOR FALSE IMPRISONMENT; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; LOSS OF CONSORTIUM; CONSPIRACY; BREACH OF CONTRACT; RESTITUTION; FRAUD; INVASION OF PRIVACY; BREACH OF STATUTORY DUTY TO PAY MINIMUM WAGES AND OVERTIME [Cal. Lab. C.§1194] AND CONSTRUCTIVE FRAUD

COME NOW Plaintiffs VICKI J. and RICHARD N. AZNARAN, and allege as follows:

JURISDICTION AND VENUE

1. Jurisdiction for all of Plaintiffs' claims is proper under 28 USC §1332 because complete diversity exists between all Plaintiffs and all Defendants, and the amount in controversy exceeds Ten Thousand Dollars ($10,000.00). Venue is

proper under 28 USC §§1391(b) and 1392 because all of Plaintiffs' claims arose in this District and one or more of the Defendants resides in this District.

COMMON ALLEGATIONS

2. Plaintiffs VICKI J. AZNARAN and RICHARD N. AZNARAN (hereinafter "Plaintiffs"), are individuals domiciled in the State of Texas, County of Dallas.

3. Plaintiffs are informed and believe and thereon allege that Defendants CHURCH OF SCIENTOLOGY OF CALIFORNIA, INC., CHURCH OF SPIRITUAL TECHNOLOGY, INC., SCIENTOLOGY MISSIONS INTERNATIONAL, INC., RELIGIOUS TECHNOLOGY CENTER, INC., AUTHOR SERVICES, INC., AND CHURCH OR SCIENTOLOGY INTERNATIONAL, INC. and CHURCH OF SCIENTOLOGY OF LOS ANGELES, INC., are, and at all times herein mentioned were, California corporations authorized to do and doing business in the State of California.

4. Plaintiffs are informed and believe and thereon allege that Defendants AUTHOR FAMILY TRUST, MISSION OFFICE WORLDWIDE, and the ESTATE OF L. RON HUBBARD are entities that are residents of the State of California.

5. Plaintiffs are informed and believe and thereon allege that Defendants DAVID MISCAVIGE and NORMAN STARKEY are individuals domiciled in the State of California.

6. Corporate Defendants named in paragraph 2, above, are subject to a unity of control, and the separate alleged corporate structures were created as an attempt to avoid payment of taxes, and civil judgments. Due to the unity of personnel, commingling of assets, and commonality of business objectives, the attempt at separation of these corporations should be disregarded by the Court.

The fallacious designations of Defendant organization as "Churches" or other religious entities is a sham contrived to exploit protections of the First Amendment of the United States Constitution, and at no time herein mentioned did Defendants render any religious services, or engage in any religious activities whatsoever. Rather, said organizations were created solely for the purpose of making money from the sale of copyrights of the book Dianetics, written by L. RON HUBBARD, and from the subjugation and exploitation of thousands of individuals such as Plaintiffs for free labor and services.

8. Each of the Defendants is the agent, coconspirator, partner or employee of the other, and did the acts alleged herein pursuant to said relationship.

9. From the period in or about November of 1973 until in or about May of 1987, Plaintiffs were members of the CHURCH OF SCIENTOLOGY (hereinafter the "Church"). Plaintiff RICHARD N. AZNARAN (hereinafter "RICHARD") was indoctrinated into the Church in Dallas, Texas, upon returning from service with the Unites States Marine Corps in Vietnam, by active recruitment techniques which involved written examinations, assignment to "communication courses" for which Plaintiffs paid good and adequate consideration, and assignments to different job positions within the Church. Plaintiff VICKI AZNARAN was also recruited by the Church in Dallas, Texas in or about the same time by the same active recruitment techniques.

10. In or about 1975, Plaintiffs entered into a five year renewable written Employment Agreement with Defendants, and each of them, whereby Plaintiffs would be paid an unspecified "allowance," bonuses, and room and board in exchange for an

unspecified number of hours to be worked each day and week for the Church. As a matter of policy, Plaintiffs later learned that their allowance amounted to approximately $17.50 per week and working hours were 9:00 a.m to 12:00 midnight, daily, with one day's leave every two weeks. Even these "privileges," however, were subject to being removed by the Church pursuant to the "Team Member System." Pursuant to the Team Member System, the Church published five classes of laminated cards, each class representing a token to be used as privately-issued money in exchange for food, board, pay, bonuses and liberty. The Team Member System required that the Plaintiffs be given one of each of these cards when the Church administration was satisfied with their work production, and loyalty to the organization. Any dissatisfaction with the work output or "attitude" of Plaintiffs would result in revocation of the tokens, thereby requiring Plaintiffs to work long hours with no days off, no pay, no board (requiring them to sleep outdoors on the ground) and substandard nutrition comprised solely of rice, beans and water. When Plaintiffs had lost all of their cards, as a matter of course, they would be sent to the Rehabilitation Project Force for "attitude adjustment," which was comprised of even harsher labor, deprivation of liberty, and psychological duress forcing the submission of Plaintiffs to the power and control of Defendants, as set out more specifically herein.

11. From the outset, and during the course of their involvement with the Church, Defendants subjected Plaintiffs to psychological trauma, duress and undue influence for the purposes of forcing submission of Plaintiffs to the control of Defendants by means of brainwashing. The purpose of forcing submission of

Plaintiffs and other individuals to the control of Defendants was to create a slave-like work force that would work to the wealth and benefit of Defendants. Once Plaintiffs were placed under the domination of Defendants, Plaintiffs were exploited against their will to work as uncompensated employees of Defendants, and continuously subjected to physical and psychological trauma, indoctrination and exhaustion.

12. For the duration of their affiliation with Defendants, Defendants and each of them employed the following psychological devices, as well as other devices, to cause Plaintiffs to involuntarily abandon their identities, spouses, and loyalties, and deprive Plaintiffs of their independent free will, thereby forcing them to submit to the physical and psychological control of Defendants: Threats of torture; implementation of brainwashing tactics; threats of physical harm for lack of loyalty to Defendants; implementation of an electronic device dubbed the "E Meter" that purportedly measured the degree of Plaintiffs' loyalty to Defendants through electrodes held in Plaintiffs' hands during the course of lengthy interrogations, as described with more particularity herein; sudden involuntary and forceable separation of spouses from one another for many months, and depriving the spouses of communication with one another or allowing them to know where the other was located; willfully and expressly inducing divorce between Plaintiffs; forcibly causing Plaintiffs to work long hours at hard labor in excess of 40 hours a week and eight hours a day without compensation; deliberately inducing fatigue by physical abuse and deprivation of sleep; forcing Plaintiffs to be housed in animal quarters; deliberately confining Plaintiffs to

premises under the control of Defendants and under threat of physical harm without allowing Plaintiffs to leave of their own free will; and threatening Plaintiffs that failure to submit to the power and control of Defendants would result in their becoming "fair game," a term of art coined by Defendants, described more clearly herein.

13. During the course of their involuntary affiliation with Defendants, Plaintiffs were, on many occasions, subjected to scrutiny regarding their loyalty to Defendants by being placed on the E Meter. The E Meter is an electronic device used by Defendants that measures the emotional responses of employees of Defendants, such as Plaintiffs, through electrodes held in the hands. Plaintiffs would regularly be interrogated for days on end, not being allowed to sleep, regarding their loyalty or lack thereof to Defendants. The E Meter was comprised of a needle that would rise to levels indicating the degree of credibility and loyalty of the interrogated party.

14. Defendants, and each of them, have a known policy of "fair game." This policy directs that any individual or employee who expresses a lack of loyalty to Defendants is open to any form of harassment, economic ruin, or subject to any covert plan designed to cause emotional or physical harm, and/or financial ruin. This plan includes the destruction of a person's business, reputation, and/or framing of false charges of criminal acts. Throughout Plaintiffs' involuntary affiliation with Defendants, they were constantly psychologically tormented with threats of becoming "fair game" within the context of the specialized meaning given the term by Defendants.

15. During the course of their "employ" with Defendants, Plaintiff VICKI J. AZNARAN (hereinafter "VICKI") was employed in the so-called Commodore's Messenger Organization, executing the directives of L. RON HUBBARD (herein "Hubbard") in a management capacity. RICHARD was assigned to the personal office of Hubbard in the capacity of Public Relations Expert in charge of creating a positive image of Hubbard among staff and the public.

16. In or about 1981, VICKI was ordered to Los Angeles where she was employed as a "missionaire" to purge members of Defendants' organization who had been subjected to civil and criminal prosecution, remove assets of Defendant CHURCH OF SCIENTOLOGY OF CALIFORNIA to overseas trusts where they could not be accessed by plaintiffs or the government, and set up sham corporate structures to evade prosecution generally. RICHARD was sent with VICKI in the capacity of a security investigator who surveilled members of the organizations associated with Defendants for the purposes of determining their loyalty and likelihood that they would testify against Defendants in pending civil and criminal suits, as well as designated "enemies" of the Church. In or about December of 1981, VICKI and RICHARD were ordered to the Religious Technology Center controlled and operated by Defendant RELIGIOUS TECHNOLOGY CENTER, INC., at Gilman Hot Springs, near Hemet, California. VICKI was assigned to work for Defendant AUTHOR SERVICES, INC., in managing the sales of copyright of the book, Dianetics, written by Hubbard. She was also commissioned to reorganize corporate structures and effect sham sales of millions of copies of Dianetics to the corporate Defendants named herein as a vehicle for transferring

assets among them. RICHARD was assigned to supervise the construction of a home for Hubbard with the assistance of some 120 other "members" of the various organizations of Defendants. Plaintiffs were assigned to these positions by Defendant DAVID MISCAVIGE (herein "MISCAVIGE") who was operating under instructions of Ann and Patrick Broeker, personal confidants of Hubbard.

17. In or about March of 1982, Defendant MISCAVIGE became dissatisfied with the speed at which RICHARD was completing the construction project, and imposed the Team Member System, thereby depriving RICHARD of all of his cards, and thereby forcing RICHARD to work without pay from 9:00 a.m. to 12:00 p.m., without any days off, to sleep outdoors, and to eat only rice and beans. Ultimately, RICHARD was punished by being assigned to the Rehabilitation Project Force in Los Angeles where he was made a member of a construction crew working on the renovation of buildings owned and operated by Defendants on the corner of Vermont and Sunset, known as the Cedars of Lebanon Buildings. RICHARD was forced to work long hours again, from 9:00 a.m until 12:00 midnight without any days off at a rate of pay of $1.25 per week. He was forced to work in this position for 99 days. During the course of his incarceration on the Rehabilitation Project Force, VICKI remained in Hemet where she worked directly for Ann Broeker. Both VICKI and RICHARD were deprived of the right of meeting with each other; nevertheless, VICKI surreptitiously drove to Los Angeles to meet with RICHARD late Friday nights. Both VICKI and RICHARD had been told that if they had been caught meeting or communicating with each other, they would become "fair game." Finally, on or around

Thanksgiving of 1982, RICHARD was deemed "rehabilitated" and returned to the Religious Technology Center in Hemet where he installed a security system around the Hubbard residence, and continued to work in the capacity of security specialist . for Defendants.

18. In or about October of 1982, Defendants, and each of them, resolved to restructure their corporate and financial relationships at a meeting in San Francisco, which restructuring called for all Scientology entities to turn over their profits to Defendant AUTHOR SERVICES, INC. VICKI expressed disapproval of the proposal and was summarily ordered to the Rehabilitation Project Force in Hemet where, for approximately 120 days, was forced to participate in the "running program." The running program required VICKI and other persons subjected to the control of Defendants to run around an orange telephone pole from 7:00 a.m. until 9:30 p.m. in the evening, with 10 minute rests every one-half hour, and 30 minute breaks for lunch and dinner. In or about May of 1983, VICKI was deemed rehabilitated and ordered back to the Religious Technology Center at Gilman Hot Springs. From mid 1983 until the death of Hubbard on January 24, 1986, VICKI and RICHARD remained in their respective work capacities at Gilman Hot Springs continually undergoing physical trauma and indoctrination by use of the techniques already described hereinabove.

19. On or about January 24, 1986, RICHARD was ordered to the San Louis Obispo ranch of Hubbard where he was forced to work in the capacity of a security guard for a year and a half. During this time, Defendants, and each of them, continued to force him to work the hours of 9:00 a.m until 12:00 midnight,

with the possibility of having one day off every two weeks, at minimum wage. RICHARD was forced to falsify time cards to falsely indicate that he had been working 40 hour work weeks, so as to avoid an obligation on the part of Defendants from paying him overtime. During his stay at the ranch in San Louis Obispo, RICHARD was forced to sleep in a horse stable with several of the other indoctrinated employees of Defendants. During the course of RICHARD's stay at the ranch, VICKI was not told of his whereabouts, nor were Plaintiffs permitted to correspond with each other.

20. In or about February of 1987, a schism arose between Defendant MISCAVIGE and the Broekers, each of whom claimed to possess the "upper level Holy Scriptures" written by Hubbard, which scriptures Hubbard had intended to bequeath to the Church. VICKI became increasingly demanding of Defendant MISCAVIGE to be put in contact with RICHARD, and Defendant MISCAVIGE regarded her demands as an expression of allegiance to MISCAVIGE's new religious rival, the Broekers. MISCAVIGE therefore ordered VICKI to the Rehabilitation Project Force at "Happy Valley," a secret location bordering the Sobova Indian Reservation near Gilman Hot Springs, California, overseen and controlled by Defendant NORMAN STARKEY.

21. Plaintiff VICKI understood that the consequences of the lack of cooperation was a threat of "fair game," and that Defendants, and each of them, would make efforts to sever her relationship entirely with her husband, as Defendants had done to others. VICKI was further advised that if she went to the Rehabilitation Project Force camp in Happy Valley cooperatively, she would be able to see RICHARD within a few days. This

representation was false when made. In fact, Defendants concealed the true intent which was to keep VICKI totally separated from her husband and deny her access to him.

22. Once having arrived at Happy Valley, VICKI was assigned a guard and was not allowed to go anywhere or do anything without her guard being present. At night, she was imprisoned by having heavy furniture moved to secure the exit, keeping her from in any way escaping. Further, Defendants kept, and continue to keep all of her physical belongings including a horse and two dogs.

23. VICKI was in fear of being physically prevented from leaving, or subject to "fair game" if she escaped. Plaintiff had seen in the past other victims of Happy Valley be beaten upon attempted escape, and their personal belongings destroyed. During this period of unlawful detention, VICKI was unable to communicate with RICHARD as their correspondence was intercepted and denied. During this period of false imprisonment, VICKI and others were made to wear rags taken out of garbage cans, sleep on the ground, dig ditches, subjected to many hours of indoctrination using the techniques hereinabove, all designed to coercively force VICKI to submit to the control of Defendants. During the time of her incarceration in Happy Valley, Defendants DAVID MISCAVIGE and NORMAN STARKEY were directing and enforcing the coercive and abusive indoctrination devices at Happy Valley.

24. On or about April 9, 1987 VICKI and two other victims escaped from Happy Valley onto the Sobova Indian Reservation where they were pursued on motorcycles by guards of Happy Valley. VICKI and the other victims were rescued by

residents of the reservation who picked them up in a pick-up truck and spirited them to a motel in the City of Hemet.

25. As these events were transpiring, RICHARD, still at the ranch in San Louis Obispo, was repeatedly urged that VICKI had become disloyal to Defendants, and that RICHARD should divorce her.

26. RICHARD demanded to see VICKI and was permitted to go to Hemet where Plaintiffs were reunited. Fearful of reprisals and becoming "fair game," however, Plaintiffs did not at that time sever their relationships altogether with Defendants. Plaintiffs therefore left the State of California to Dallas, Texas where they set up a private investigation business, remaining in contact and under the control of Defendants.

27. Because Defendants regarded Plaintiffs departure to Texas as a breach of their five year commitment with Plaintiffs, Defendants submitted a bill for services allegedly rendered to Plaintiffs entitled "freeloader bill" in the amount of $59,048.02. This bill purports to indicate all of the expenses incurred by Defendants in indoctrination activities imposed upon Plaintiffs. That is, Defendants attempted to charge money to Plaintiffs for each session in which the E Meter was used, all indoctrination sessions, and time spent on the Rehabilitation Project Force. These services are dubbed "courses" and "auditing sessions." Plaintiffs have been required to make payments on this fictitious bill in order to escape becoming "fair game."

28. As a result of the psychological trauma nd indoctrination techniques applied by Defendants, and each of them, Plaintiffs were unable to comprehend their legal rights

with regard to the actions of Defendants, and were not sufficiently conscious of the nature and effect of the acts of Defendants so as to be able to take legal action or hire an attorney until on or about January 1, 1988. Plaintiffs continued to submit to the demands and requests of Defendants, and remained subjected to psychological trauma imposed by Plaintiffs until on or about January 1, 1988, when they resolved to seek legal assistance.

FIRST CAUSE OF ACTION
(False Imprisonment)

29. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations as though set forth in full below.

30. In or about February, 1987, Defendants, and each of them, physically seized Plaintiff VICKI AZNARAN ("VICKI") and forcibly, against her will, and without her consent and over her protest, placed VICKI in the confines of a so-called Rehabilitation Project Force Camp at Happy Valley, California, near the Sobova Indian Reservation, Riverside County. During this time, Defendants, and each of them, employed coercive indoctrination tactics more fully described in Common Allegations above, warned her that she would be "Fair Game," and made representations that they would work to severe her marriage with her husband, Plaintiff RICHARD AZNARAN. Plaintiff VICKI was in fear of being physically beaten, and was under constant guard at all times. During this period of false imprisonment, Plaintiff VICKI and other inmates were made to wear rags taken out of garbage cans, sleep on the ground, dig ditches, and were

subjected to numerous hours of indoctrination, all designed to coercively force VICKI to submit to the control of Defendants. On or about April 9, 1987, VICKI was successful in escaping from Happy Valley.

31. In employing these coercive and threatening tactics during the course of imprisonment more fully described in Common Allegations, above, Defendants, and each of them, acted with deliberate malice for the purpose of forcing submission of Plaintiff VICKI to their control, so that she would remain in their employ for no consideration whatsoever, under circumstances that can only be described as involuntary servitude.

32. As a proximate result of the acts of Defendants set out herein, and in the Common Allegations, above, Plaintiff VICKI was injured in her health, strength, and activity, sustaining injury to her body and shock and injury to her nervous system and person, all of which injuries have caused VICKI to suffer extreme and severe physical pain and mental anguish. These injuries have resulted in, and will continue to result in, some permanent disability to Plaintiff VICKI, and Plaintiff VICKI has been damaged in an amount according to proof at trial.

33. Defendants, and each of them, engaged in the false imprisonment of Plaintiff VICKI as herein alleged, and were willful, wanton, despicable, malicious, and oppressive, and their acts justify the awarding of punitive damages, and Plaintiff VICKI is entitled to and hereby demands from Defendants, and each of them, punitive damages in an amount not less than Ten Million Dollars ($10,000,000.00).

SECOND CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

34. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Cause of Action, as though set forth in full below.

35. Defendants, and each of them, represented to Plaintiffs and others, that they were rendering services of a spiritual and psychological nature that would make Plaintiffs better persons. These representations included statements that Scientology would scientifically improve Plaintiffs' well being and make them physiologically better persons. These representations were false when made by Defendants, and each of them, and known to be false when made. Based on the relationship of trust developed between Plaintiffs and Defendants, Defendants, and each of them, were fully aware of the particular susceptibility of Plaintiffs' to emotional distress imposed by them.

36. Defendants' conduct, as set out in the Common Allegations, above, was intentional and malicious and done for the purpose of causing Plaintiffs to suffer humiliation, mental anguish, and emotional and physical distress. The conduct of Defendants in confirming and ratifying that conduct was done with the knowledge that Plaintiffs' emotional and physical distress would thereby increase upon application of the indoctrination techniques used by Plaintiffs more fully set out in the Common Allegations, above, including, but not limited to, causing Plaintiffs to be separated for many months without knowing where

the other was located. Such conduct was done with a wanton and reckless disregard of the consequences to Plaintiffs.

37. As the proximate result of the aforementioned acts, Plaintiffs suffered humiliation, mental anguish, and emotional and physical distress, and have been injured in mind and body in an amount according to proof at trial.

38. The aforementioned acts of Defendants were willful, wanton, despicable, malicious, and oppressive, and justify the awarding of exemplary and punitive damages in an amount not less than Ten Million Dollars ($10,000,000.00).

THIRD CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

39. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, and Paragraphs 29 through 33, inclusive, of the First Cause of Action, and Paragraphs 34 through 38, inclusive, of the Second Cause of Action as though set forth in full below.

40. From the period of 1973 until 1988, Defendants, and each of them, represented to Plaintiffs and others, that they were rendering services of a spiritual and physiological nature that would make Plaintiffs better persons. These representations included statements that Scientology technology would scientifically improve Plaintiffs' well being and make them psychologically better persons.

41. During the course of their affiliation with Plaintiffs, Defendants, and each of them, engaged in the conduct more fully described hereinabove in the Common Allegations.

42. As a proximate result of the negligence and carelessness of Defendants, and each of them, Plaintiffs suffered

serious mental anguish and emotional distress and have been injured all to Plaintiffs' damage in an amount to be determined according to proof at trial.

FOURTH CAUSE OF ACTION
(Loss of Consortium)

43. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Cause of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, and of Paragraphs 49 through 42, inclusive, of the Third Cause of Action, as though set forth in full below.

44. As a consequence of the conduct of Defendants, and each of them, set out more fully above in the Common Allegations, Plaintiffs were unwillfully separated from each other for long periods of time and were deprived of their right as husband and wife to remain together and in communication.

45. Prior to the conduct of Defendants, and each of them, more fully set out in the Common Allegations above, each of Plaintiffs was able to, and did perform his or her duties as a husband or wife. Subsequent to the conduct of Defendants, and as a proximate result thereof, Plaintiffs were unable to perform their necessary duties as spouses to each other, and each was unable to perform their work, services, and duties. By reason thereof, Plaintiffs were deprived of each other's consortium, all to Plaintiffs' damage in an amount according to proof at trial.

46. Defendants, and each of them, engaged in said conduct, with the specific intent to injure Plaintiffs, which constitutes oppression, malice, despicable conduct, and a conscious disregard for the Plaintiffs' rights and, therefore,

Plaintiffs a e entitled to and hereby demand from Defendants, and each of them, punitive damages in an amount not less than Ten Million Dollars ($10,000,000.00).

FIFTH CAUSE OF ACTION
(Conspiracy)

47. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Cause of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action as though set forth in full below.

48. During the course of Plaintiffs' affiliation with Defendants, Defendants, and each of them, knowing and willfully conspired, and agreed among themselves, to engage in the tortious activities and wrongful schemes set out in the Common Allegations, above.

49. Defendants, and each of them, did the acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and above-alleged agreement.

50. Defendants, and each of them, furthered the conspiracy by cooperating with each other and/or lending aide and encouragement to, and/or ratifying and adopting the acts of each other in perpetrating the conspiracy herein alleged.

51. As a proximate result of the wrongful acts herein alleged, Plaintiffs have been generally damaged in an amount to be determined according to proof at trial.

52. Defendants, and each of them, did the things herein alleged maliciously and to oppress Plaintiff, and

constitute despicable conduct. Plaintiff is therefore entitled to exemplary or punitive damages in a sum of not less than Ten Million Dollars ($10,000,000.00).

SIXTH CAUSE OF ACTION
(Fraud)

53. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33 inclusive, of the First Cause of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action as though set forth in full below.

54. Defendants, and each of them, represented to the Plaintiffs and others, that they were rendering services of a spiritual and psychological nature that would make Plaintiffs better persons. These representations included statements that Scientology technology would scientifically improve Plaintiffs' well being and make them psychologically better people. These representations were false when made by Defendants, and each of them, and known to be false when made.

55. Defendants, and each of them, knew that the practices of the so-called Church of Scientology, its affiliates, and Defendants named herein, were not designed to increase the well being of any of its victims, but where made to coercively persuade each and every follower to dedicate their lives to Defendants in order for Defendants to increase their wealth derived from an overall scheme to make money founded on the exploitation of free labor. Pursuant thereto, Defendants, and

each of them, required Plaintiffs to participate in crimes against the United States Government, including the obstruction of justice and efforts to create corporate structures designed to keep payments from properly being paid to the Internal Revenue Service.

56. Pursuant to the fraudulent scheme described herein, Plaintiffs were, subjected to humiliation, degradation, physical labor, and imprisonment, all designed to break down their will and free thinking, and convert them into submissive, frightened and dedicated followers of Defendants.

57. In submitting to Defendants' programs, Plaintiffs reasonably relied upon the representations of Defendants, and each of them, and if they had known the truth, Plaintiffs would not have submitted. As a result of said fraudulent conduct, Defendants lost 15 years of their lives, suffered emotional distress and psychological injury, and were deprived of some 15 years of salary.

58. As a proximate result of the wrongful acts herein alleged, Plaintiffs have been damaged in an amount to be determined according to proof at trial.

59. Defendants, and each of them, engaged in said fraudulent activity with the specific intent to injure Plaintiffs, which constitutes oppression, despicable conduct, malice and a conscious disregard for Plaintiffs' rights and, therefore, Plaintiffs are entitled to and hereby demand from Defendants, and each of them, punitive damages in an amount not less than Ten Million Dollars ($10,000,000.00).

SEVENTH CAUSE OF ACTION
(Breach of Contract)

60. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Causes of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, and Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action, and Paragraphs 53 through 59, inclusive, of the Sixth Cause of Action as though set forth in full below.

61. Commencing in or about 1972, Plaintiffs entered into oral and written agreements with Plaintiffs wherein Defendants, and each of them, promised to provide spiritual and psychological services to Plaintiffs. In return, Plaintiffs would work and serve Defendants, and each of them.

62. Defendants, and each of them, breached the said agreements by not providing any spiritual or psychological services, but rather, providing indoctrination, psychological coercion, duress and stress, all designed to break Plaintiffs' will so that they would remain compliant servants to Defendants for the remainder of their lives, and to the use of Defendants in furtherance of illegal conduct and money making schemes. As the result of said breach of agreement as set out both herein and in the Common Allegations, above, Plaintiffs have lost the value of the reasonable services rendered to Defendants, and each of them, during their 15 year affiliation with Defendants. Further, Plaintiffs have lost 15 years of their lives that would have

otherwise been spent developing careers and financial security for themselves.

63. As a proximate result of the breach of the agreement described herein, and in the Common Allegations above, Plaintiffs have been damaged in an amount according to proof at trial.

EIGHTH CAUSE OF ACTION
(Restitution)

64. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Causes of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, and Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action, and Paragraphs 53 through 59, inclusive, of the Sixth Cause of Action, and Paragraphs 60 through 63, inclusive, of the Seventh Cause of Action as though set forth in full below.

65. Defendants, and each of them, publicly advocate that any person who takes Scientology courses and becomes dissatisfied with the same, is entitled to a refund of the financial compensation paid for the same.

66. This representation by Defendants, and each of them, is part of the agreement between Plaintiffs and Defendants for Scientology technology services Plaintiffs have received. Pursuant to said agreement, Plaintiffs have, and are hereby making, demand upon Defendants, and each of them, for the return of the financial compensation paid for such training and courses.

Defendants, and each of them, have placed a monetary value of the services rendered by Defendants, and each of them, at Fifty-Nine Thousand Forty Eight Dollars and Forty Cents ($59,048.40).

68. Plaintiffs, through their labor, have paid the full amount of said monetary value of services and therefore demand return of this sum from Defendants, and each of them, to Plaintiffs.

69. Furthermore, Plaintiffs demand the reasonable value of the services they have rendered to Defendants, and each of them, over the period of 1972 to 1988, more fully described in the common allegations, above, in an amount according to proof at trial.

NINTH CAUSE OF ACTION
(Invasion of Privacy)

70. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Causes of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, and Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action, and Paragraphs 53 through 59, inclusive, of the Sixth Cause of Action, and Paragraphs 60 through 63, inclusive, of the Seventh Cause of Action, and Paragraphs 64 through 69, inclusive of the Eighth Cause of Action as though set forth in full below.

71. Pursuant to the promises of Defendants, and all of them, regarding spiritual and psychological counseling,

Plaintiffs were forced to participate in "counseling sessions" in which they were forced to reveal that their inner-most private thoughts and feelings. Defendants, and each of them, represented to Plaintiffs that all such information received from the so-called "auditing" sessions employing the use of various psychological techniques, including, but not limited to, the use of the E-Meter described in the Common Allegations above, would be held in confidence and would never be disclosed or put to any use. Said information was of no legitimate public concern. Pursuant to these representations and promises, Plaintiffs participated in the "auditing sessions" and discussed and disclosed their inner-most private thoughts.

72. In April, 1987, and prior to April 9, 1987, Defendants, and each of them, read the private file of Plaintiff VICKI J. AZNARAN containing said private information from VICKI's auditing sessions.

73. Defendants, and each of them, demanded that VICKI then publicly disclose and give further details concerning further events they had learned from said file concerning various other victims of Defendants. VICKI was advised, warned and threatened that if she did not give further details, Defendants, and each of them, would "get it out of you one way or another."

74. As a result of this violation of privacy, VICKI has been humiliated, distraught, and suffered emotional distress, damaging her in an amount according to proof at trial.

75. Defendants, and each of them, engaged in said invasion of privacy with the specific intent to injure Plaintiff, which constitutes despicable conduct, oppression, malice and conscious disregard for Plaintiff's rights and, therefore,

Plaintiff i_ entitled to and hereby demands from Defendants, and each of them, punitive damages in and amount not less than Ten Million Dollars ($10,000,000.00).

TENTH CAUSE OF ACTION
(Breach of Statutory Duty to Pay Minimum Wages and Overtime)

76. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Causes of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, and Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action, and Paragraphs 53 through 59, inclusive, of the Sixth Cause of Action, and Paragraphs 60 through 63, inclusive, of the Seventh Cause of Action, Paragraphs 64 through 69, inclusive of the Eighth Cause of Action, and Paragraphs 70 through 75, inclusive of the Ninth Cause of Action as though set forth in full below..

77. During the period from in or about June, 1973, to in or about April, 1987, inclusive, Plaintiffs worked for Defendants, and each of them, for a total of 9,764 man hours, 5,648 of which represent regular working hours, and 4,116 hours of which represent overtime hours.

78. Plaintiffs are therefore entitled to an amount representing minimum wage for the regular hours worked as well as overtime pay for overtime hours, pursuant to California Labor Code §1194, in an amount according to proof at trial.

79. Plaintiffs are also entitled to reasonable attorneys' fees in an amount according to proof at trial, pursuant to §218.5 of the California Labor Code.

ELEVENTH CAUSE OF ACTION
(Constructive Fraud)

80. Plaintiffs repeat, reallege and incorporate herein by reference each of the allegations contained in Paragraphs 2 through 28, inclusive, of the Common Allegations, Paragraphs 29 through 33, inclusive, of the First Causes of Action, Paragraphs 34 through 38, inclusive, of the Second Cause of Action, Paragraphs 39 through 42, inclusive, of the Third Cause of Action, and Paragraphs 43 through 46, inclusive, of the Fourth Cause of Action, and Paragraphs 47 through 52, inclusive, of the Fifth Cause of Action, and Paragraphs 53 through 59, inclusive, of the Sixth Cause of Action, and Paragraphs 60 through 63, inclusive, of the Seventh Cause of Action, Paragraphs 64 through 69, inclusive of the Eighth Cause of Action, Paragraphs 70 through 75, inclusive of the Ninth Cause of Action, and Paragraphs 76 through 79, inclusive of the Tenth Cause of Action as though set forth in full below.

81. Defendants, and each of them, represented to the Plaintiffs and others, that they were rendering services of a spiritual and psychological nature that would make Plaintiffs better persons. These representations included statements that Scientology technology would scientifically improve Plaintiffs' well being and make them psychologically better people. These representations were false when made by Defendants, and each of them, and known to be false when made.

82. As a consequence of the false representations made by Defendants, and each of them to Plaintiffs, Plaintiffs and

Defendants veloped a relationship of trust elevating Defendants to the role of fiduciaries of Plaintiffs.

83. In submitting to Defendants' programs, Plaintiffs relied upon the representations of Defendants, and each of them, and if they had known the truth, Plaintiffs would not have so submitted. As a result of said fraudulent conduct, Defendants continued to submit to demands of Plaintiffs to their detriment, from the period in or about 1973 until on or about January 1, 1988.

84. As a proximate result of the wrongful acts herein alleged, Plaintiffs have been damaged in an amount to be determined according to proof at trial.

85. Defendants, and each of them, engaged in said fraudulent activity with the specific intent to injure Plaintiffs, which constitutes oppression, malice and a conscious disregard for Plaintiffs' rights and, therefore, Plaintiffs are entitled to and hereby demand from Defendants, and each of them, punitive damages in an amount not less than Ten Million Dollars ($10,000,000.00).

WHEREFORE, Plaintiffs pray for judgment as follows:

As to the First Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages from Defendants, and each of them, in an amount not less than Ten Million Dollars ($10,000,000.00);

As to the Second Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages from Defendants, and each of them, in an amount not less than Ten Million Dollars ($10,000,000.00);

As to the Third Cause of Action:

1. For general and special damages according to proof at trial;

As to the Fourth Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages from Defendants, and each of them, in an amount not less than Ten Million Dollars ($10,000,000.00);

As to the Fifth Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages from Defendants, and each of them, in the amount of Ten Million Dollars ($10,000,000.00);

As to the Sixth Cause of Action:

1. For general and special damages according to proof at trial;

2. For punitive damages in an amount of not less than Ten Million Dollars ($10,000,000.00);

As to the Seventh Cause of Action:

1. For general and special damages according to proof at trial; and

As to the Eighth Cause of Action:

1. For general damages according to proof at trial; and

2. For special damages i the amount of $59,048.40.

As to the Ninth Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages in an amount of not less than Ten Million Dollars ($10,000,000.00); and

As to the Tenth Cause of Action:

1. For general and special damages according to proof at trial; and

2. Reasonable attorneys' fees according to proof at trial.

As to the Eleventh Cause of Action:

1. For general and special damages according to proof at trial; and

2. For punitive damages in an amount of not less than Ten Million Dollars ($10,000,000.00).

As to all Causes of Action:

1. For cost of suit incurred herein;

2. For attorneys' fees incurred; and

3. For such other and further relief and the court may deem just and proper.

Dated: April 1, 1988

CUMMINS & WHITE

By: ______________________
SHELLEY M. LIBERTO
Attorneys for Plaintiffs
VICKI J. AZNARAN and
RICHARD N. AZNARAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 41 HON. RAYMOND CARDENAS, JUDGE

RELIGIOUS TECHNOLOGY CENTER, A CALIFORNIA NON-PROFIT RELIGIOUS CORPORATION; CHURCH OF SCIENTOLOGY INTERNATIONAL, A CALIFORNIA NON-PROFIT RELIGIOUS CORPORATION; AND CHURCH OF SCIENTOLOGY OF CALIFORNIA, A CALIFORNIA NON-PROFIT RELIGIOUS CORPORATION,

PLAINTIFFS,

VS.

JOSEPH A. YANNY, AN INDIVIDUAL; JOSEPH A. YANNY, A PROFESSIONAL LAW CORPORATION; AND DOES 1 THROUGH 25, INCLUSIVE,

DEFENDANTS.

SUPERIOR COURT
CASE NO. BC 033035

REPORTER'S TRANSCRIPT

AUGUST 6, 1991

APPEARANCES:

(AS NOTED ON NEXT PAGE.)

COPY

LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER

CETERA, NOTHING TO DO WITH ADVERSE REPRESENTATION OF SCIENTOLOGY. THEY DO NOT HAVE THE RIGHT --

THE COURT: MR. YANNY, I STATED THAT THE TRO WAS TOO BROAD IN THAT IT IS THE COURT'S INTENT NOT TO PRECLUDE ASSOCIATION, DISCUSSION, AND SO FORTH, AND I THOUGHT THAT WOULD SEND THE MESSAGE THAT IF THERE WAS AN ORDER, IT WOULD BE A LOT MORE NARROW THAN THE TRO THAT WAS SIGNED.

MR. YANNY: YOUR HONOR, BUT BASED ON THE STRENGTH OF WHAT THEY'VE SHOWN; NOTHING?

AND WHAT YOU'RE GOING TO DO BY GIVING THESE, THE MOST LITIGIOUS PEOPLE IN THE CITY OF LOS ANGELES, MAYBE THE STATE OF CALIFORNIA, AND MAYBE THE UNITED STATES, YOU'RE GOING TO GIVE THEM AN ORDER BY WHICH THEY ARE THEN GOING TO HARASS EVERY ONE OF MY EMPLOYEES LIKE YOU SAW THEM DO BEFORE, EVERY ONE OF MY CLIENTS, LIKE YOU SAW THEM DO BEFORE.

OKAY. AND THAT, BASED ON THE STRENGTH OF WHAT THEY SHOWED, YOU KNOW, IT IS -- I HATE TO SAY THIS -- THAT IS INEQUITABLE -- THAT IS INEQUITABLE -- AND ALL OF THIS BECAUSE I DID ONE THING; I HIRED GERRY ARMSTRONG AS A PARALEGAL TO HELP ME ON THE AZNARAN CASE?

THE COURT: NO. ALL BECAUSE --

MR. YANNY: I TOLD HIM ABOUT COPYRIGHT NOTICES AND I MADE AN APPEARANCE IN A FEDERAL CASE AND THAT THE JUDGE DISQUALIFIED ME.

I DON'T THINK AN ORDER IS APPROPRIATE. THIS CASE SHOULD HAVE BEEN THROWN OUT WHEN YOU SAW THE COMPLAINT.

DECLARATION OF JOSE A. YANNY

I, Joseph A. Yanny, make the following declarations from personal knowledge and could competently testify as set forth below if called upon to do so.

1. Declarant is a member in good standing of the California State Bar.

2. I am not an attorney in fact or of record in any case between Gerald Armstrong and any Church of Scientology entity, nor have I been consulted in that regard by either Scientology or Mr. Armstrong with respect to his litigation. I am informed that Mr. Armstrong has done quite well without me. I am informed that the court of appeals has recently issued an opinion on July 29, 1991 in that regard.

3. Mr. Armstrong has consulted me on literary matters involving questions of intellectual property. I decline to disclose the substance of that consultation further, but I will note, however, for the record, that that consultation had nothing at all to do with Scientology and had no relationship at all to anything I ever worked on for Scientology.

4. I have considered employing and have employed Mr. Armstrong as a paralegal from time-to-time in the past. I believe it would be inappropriate, if not illegal, to require that I not employ ex-Scientologists. Mr. Armstrong's views on Scientology should not cost him employment with my firm or elsewhere.

5. In addition, Mr. Armstrong is a potential witness in litigation I am contemplating against Scientology and in the Aznaran case. For example, Scientology has recently libeled me by

EXHIBIT_G

addition t[illegible]ing seen with Gerald Arm[illegible]ong, I filed an appearance in the Aznaran case. I sought an extension of time in which to respond to summary judgment motions first from opposing counsel and then from the court. I suggested to Mr. Quinn that they continue the summary judgment hearings until such time as the Aznarans' representation could be straightened out. Scientology declined that most reasonable suggestion. Accordingly, I filed motions to obtain extensions of time. Ultimately, the court revoked the substitution of attorney and reinstated Ford Greene as counsel of record. Presumably, Mr. Greene is responding to pending motions.

22. My appearance in the Aznaran case was so transitory that I was personally never in possession of the file. Under the circumstances, I never had an opportunity to do any work on the merits of the case. No discovery or trial preparation was done during my brief tenure as counsel of record.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on July 31, 1991, at Los Angeles, California.

JOSEPH A. YANNY

DECLARATION OF VICKI AZNARAN

I, VICKI AZNARAN, hereby declare as follows:

1. I am over 18 years of age and a resident of the State of Texas. I have personal knowledge of the matters set forth herein and, if called upon to do so, could and would competently testify thereto.

2. From 1972 until 1987, I was a member of various Church of Scientology ("Church") entities. During that time I held a number of important positions in the corporate and ecclesiastical hierarchy of the Church, including President of Religious Technology Center ("RTC") In March of 1987, my husband Richard Aznaran and I left our positions with the Church and returned home to Texas from California.

3. On April 1, 1988, Richard and I filed a lawsuit against several Church entities and individuals in the United States District Court for the Central District of California. We have now settled this case through direct negotiations with Church representatives. This declaration details how we were driven to settlement by the failure of our counsel to adequately litigate our lawsuit and how we were forced to negotiate settlement directly with representatives of the defendants due to our counsels' failure to properly represent our interests when defendants earlier had expressed interests in settlement.

4. Our lawsuit was filed on April 1, 1988 by the firm of Cummins & White. The suit was finalized and prepared in a rush in an attempt to get it filed before it was barred by the statute of limitations.

5. Additionally, despite the fact that I then testified in

deposition about the inaccuracies in the complaint, my counsel did not amend my complaint to correct them. These uncorrected falsehoods placed us at a serious disadvantage as they enabled the defendants to seize upon these points to give the impression that we were changing our testimony and deliberately stating falsehoods.

6. Another defect in the complaint was the amount of money requested, $70,000,000. Seventy million was a highly inflated figure and in fact impaired efforts to settle as the amount was so high. Shortly after the suit was filed, I pointed the high amount out to counsel and was told that it could be adjusted later. It never was.

7. Another liability to the successful prosecution of our lawsuit was the fact that Cummins & White was disqualified from representing us in our case on September 6, 1988.

8. Not being versed in the law, my husband and I relied upon the representations of Barry Van Sickle and Cummins & White that Cummins & White could properly serve as our counsel. This was wrong. Nevertheless Cummins & White expended considerable time and effort to defend their position in this regard, an action which I now understand to have been fought more for their own self-interest than for the advance of my lawsuit. In September 1988 the District Court Judge disqualified Cummins & White as our counsel, specifically finding that Cummins & White was an extension of Yanny's continuing and improper involvement in our case.

9. Because Cummins & White was disqualified, we were without an attorney in our case for several months and our case

was threatened with dismissal. We were forced to expend considerable effort to find new counsel and get him up to speed while the Church continued to litigate our case. To our detriment, and due to the urgency of having to find counsel in an already ongoing case, we were forced to obtain counsel without the necessary resources to adequately litigate the case.

10. Barry Van Sickle's attempts to settle were very weak and ineffective. In June 1991 Mr. Van Sickle reported to us that he had an offer of $1,000,000 to settle our case and one other. The offered amount for our case was $200,000 which we rejected as being too low. It was a starting point but despite our efforts to get Mr. Van Sickle to do so, he never succeeded in getting a counter offer to us. Further, Mr. Van Sickle told us that we would have to fire our existing attorney, Ford Greene, as the Church supposedly refused to deal with him in settling the case. As a result we did fire Mr. Greene. Then when Mr. Van Sickle from Cummins & White failed to complete the settlement we were again left without an attorney for a time as Cummins & White had been ordered not to represent us in the case as covered earlier in this declaration.

11. After being without counsel for several months, and finding ourselves at a serious disadvantage in complex litigation with the Church defendants, we re-hired Ford Greene to be our counsel, based on an order from the Court.

12. It has been our experience that Greene seriously neglected our lawsuit and systematically worsened its posture until it became virtually impossible to salvage.

13. From approximately February 1989 onward Ford Greene was

attorney of record in our lawsuit against the Church. During that time he did virtually no offensive work on the case, and did nothing of substance to advance our litigation position. Before our case was ordered transferred to Dallas, Texas in August of 1992, Greene had only sent out two interrogatories and had did not even take one deposition despite having obtained two extensions of the discovery cut-off. Following the transfer order, Mr. Greene did nothing whatsoever to actually get the case files sent to Dallas, Texas. Meanwhile, no activity has taken place in our case.

14. While representing us, Greene was consistently late in filing papers and in several instances placed our case in serious jeopardy by failing to file needed papers. For example, in December 1990 he neglected to oppose a major summary judgment motion which the defendants had filed. He also failed to timely file several mandatory pre-trial papers which could have interfered with our ability to effectively put on our case at trial.

15. It was reported to me by Barry Van Sickle that Mr. Green smoked marijuana when he was picked up at the airport by Rick Wynne, a Cummins & White attorney and driven to the office of Cummins & White.

16. Furthermore, Greene did not communicate with us regarding activities in our lawsuit and often could not be contacted for extended periods of time. It is my belief that at least one of these periods of non-communication was due to the fact that he had entered a drug rehabilitation program without even informing us that he intended to do so. Ford Greene did

nothing effective to settle our case. In fact, he told me he was worried about settling our case as my husband and I would no longer be witnesses for Gerry Armstrong who is a client of Ford Greene and involved in Scientology related litigation. Additionally, he attempted to bill us for work which he did not do.

17. In fact, Ford Greene solicited us to pay a monthly stipend to him for Gerry Armstrong so he could work on our case. Armstrong was precluded by an earlier agreement from working on Church litigation.

18. Furthermore, like Cummins & White, Greene was aware of the errors in the complaint and never prepared an amended complaint. In fact, he "developed" the case so that the defendants were able to accuse my husband and myself of engineering several contradictory versions of the underlying facts of the complaint. Thus Greene's "management" of the complaint set us up so that we would be faced at trial with seemingly contradictory positions which would undermine our credibility.

19. Greene's inactivity, neglect, mismanagement, and failure to communicate with us endangered our lawsuit. In our view, Mr. Greene's failure to prosecute this case is tantamount to malpractice. Based upon this history, we developed the conviction that Greene would be unable to handle the trial. While we would have preferred to get rid of Greene completely, we hesitated to do so because we knew that it would be extremely difficult for new counsel to rapidly learn the facts of the case on the eve of the trial.

20. In an attempt to resolve this dilemma, we hired John Elstead to be our attorney with Ford Greene. Elstead was recommended to us by Margaret Singer, a psychologist whom we intended to use at trial. Like Greene, Elstead has also neglected to prosecute or advance our case.

21. My husband and I have always been willing to settle our lawsuit and, in fact, considered it likely that the case would end through settlement rather than trial. In the summer of 1991 John Elstead contacted counsel for the defendants to see if there was an interest in settlement. Rather than presenting an acceptable demand, indicative of a serious interest in settlement, Elstead demanded $3,300,000. This was rejected immediately by defendants who did not consider it a serious opening demand and did not treat it as a basis for negotiations.

22. In the late summer of 1992, after the case had been ordered transferred to Dallas, Elstead met with the General Counsel for the Church of Scientology International to discuss settlement. He got nowhere.

23. Seeing that the viability of our lawsuit had been seriously endangered through the neglect and malfeasance of our attorneys, my husband and I felt compelled to take matters into our own hands to resolve this litigation in our best interests. In January of 1994 I spoke directly with Mike Rinder, a senior executive of the Church of Scientology International concerning settling the lawsuit. In the course of discussing settlement with him in this and subsequent conversations, I came to realize that my attorneys had blocked possible settlement for several years. Consistently they failed to convey our true interest in

negotiating a satisfactory end to the litigation. Shortly thereafter, Graham Berry approached us to see if he could negotiate a settlement on our behalf, by falsely claiming he had been contacted by the church making settlement overtures. Desperate to resolve this matter, I told him to go ahead. Instead of making a serious offers, on February 16, 1994 Berry demanded $3,600,000 for the settlement of our case along with various threats that he was not authorized make. Again this was not a serious attempt to settle.

24. Finally I communicated directly with a representative of one of the Church of Scientology defendant organizations. It was only when my attorneys were no longer need that both sides were able to discover that our positions were not that far apart and settlement talks were feasible.

25. In sum, it has been my observation that the counsel which my husband and I have employed have not only prolonged the litigation of our lawsuit, but have mishandled the development of the case for trial, and interfered with the process of settlement. By their actions described above, my counsel appear to have consistently put their own interests above those of myself and my husband and have failed to adequately carry out their responsibilities as members of the Bar. I am convinced we would not have been able to resolve our case had we not done so directly with the Church.

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I declare under the penalty of perjury under the laws of the United States of America, and under the laws of each individual state thereof, including the laws of the states of California and Texas, that the foregoing is true and correct.

Executed this 19th day of May, 1994 in Dallas, Texas.

Vicki J. Aznaran

VICKI J. AZNARAN

HUB LAW OFFICES
Ford Greene, Esquire
California State Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Defendant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiffs, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	No. **BC 052 395** **ARMSTRONG'S RESPONSES TO CSI'S REQUESTS FOR ADMISSION**

TO ALL INTERESTED PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PROPOUNDING PARTY: Plaintiff Church of Scientology International

RESPONDING PARTY: Defendant Gerald Armstrong

SET NO: One.

REQUEST FOR ADMISSION NO. 1

During 1990 and 1991, you voluntarily provided aid and/or advice to Bent Corydon and/or Corydon's attorney, Toby Plevin, in the case of Bent Corydon v. Church of Scientology International, et al., Los Angeles Superior Court Case No. C 694401.

RESPONSE TO REQUEST FOR ADMISSION NO. 1

Armstrong objects to this request for admission on the grounds that it is vague and ambiguous as to phrase "aid and/or advice." If the phrase is given the widest of meanings imaginable, or an unqualified meaning, then Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 2

In May, 1992, you voluntarily provided a declaration to Gary M. Bright and/or Jerold Fagelbaum.

RESPONSE TO REQUEST FOR ADMISSION NO. 2

Admitted.

REQUEST FOR ADMISSION NO. 3

Gary M. Bright and Jerold Fagelbaum are attorneys for defendants and counter-claimants David Mayo, Church of the New Civilization, John Nelson, Harvey Haber, Vivien Zegal and DeDe Reisdorf in the case of Religious Technology Center, et al. V. Robin Scott, et al., United States District Court for the Central District of California, Case No. CV 85-711 JMI (Bx).

RESPONSE TO REQUEST FOR ADMISSION NO. 3

Armstrong lacks sufficient information to be able to admit of deny this request. Armstrong objects to this request, moreover, on the ground that it seeks information which is more easily available to Scientology than Armstrong. Scientology knows who the parties and attorneys of record are in its various litigations, including the case cited in its request. All that notwithstanding, and lacking no information to the contrary, Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 4

You worked as a paralegal for attorney Ford Greene since August, 1991.

RESPONSE TO REQUEST FOR ADMISSION NO. 4

Armstrong objects to this request for admission on the grounds that it is vague and ambiguous as to to the term "paralegal." Nevertheless, omitting that term, Armstrong admits that he has worked for Ford Greene since August, 1991, and is interalia, an unqualified self-admitted paralegal. With that understanding Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 5

You attended the convention of the Cult Awareness Network in November, 1992.

RESPONSE TO REQUEST FOR ADMISSION NO. 5

Admitted.

REQUEST FOR ADMISSION NO. 6

In November, 1992, you provided a videotaped interview to Jerry Whitfield.

RESPONSE TO REQUEST FOR ADMISSION NO. 6

Admitted.

REQUEST FOR ADMISSION NO. 7

In June, 1993 you gave an interview to one or more reporters from Newsweek magazine.

RESPONSE TO REQUEST FOR ADMISSION NO. 7

Armstrong admits that he gave an interview to a reporter from Newsweek magazine, but lacks sufficient information to be able to know if said interview was in May or June of 1993. He has made a diligent search but has no confirming facts otherwise and either way.

REQUEST FOR ADMISSION NO. 8

In August, 1993, you gave an interview to one or more reporters from Entertainment Television.

RESPONSE TO REQUEST FOR ADMISSION NO. 8

Armstrong admits that he gave an interview to a reporter from Entertainment Television, but that said interview could have been in July of 1993. With that as an understanding, Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 9

In August, 1993, you provided a copy of a manuscript entitled "ONE HELL OF A STORY An Original Treatment for Motion Picture Purposes Created and Written by Gerald Armstrong to Entertainment Television.

RESPONSE TO REQUEST FOR ADMISSION NO. 9

Armstrong admits that he provided "One Hell of a Story" to Entertainment Television, but that said provision could have been in July of 1993. With that as an understanding, Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 10

In June, 1993, you helped form a Colorado corporation called "Fight Against Coercive Tactics, Inc." (hereinafter, "FACTI").

RESPONSE TO REQUEST FOR ADMISSION NO. 10

Armstrong objects to this request for admission on the grounds that it is vague and ambiguous as to the terms "helped and form."

REQUEST FOR ADMISSION NO. 11

From June, 1993 until June, 1994 you were the President of

FACTI.

RESPONSE TO REQUEST FOR ADMISSION NO. 11

Denied.

REQUEST FOR ADMISSION NO. 12

FACTI maintains and operates an electronic "library" in the form of a computer bulletin board which contains, inter alia, documents relating to plaintiff.

RESPONSE TO REQUEST FOR ADMISSION NO. 12

Armstrong lacks sufficient information to be able to admit or deny this request. Aside from the fact that Armstrong has no actual knowledge of anything Fight Against Coercive Tactics (Fact) does, lacking facts to the contrary, Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 13

You provided documents to FACTI with the intention that those documents would become a part of its electronic library.

RESPONSE TO REQUEST FOR ADMISSION NO. 13

With the understanding that Armstrong does not know of the existence of such a library, has never seen neither it nor one, and understanding that by "intention" is meant "hope," Armstrong submits an unqualified admission.

REQUEST FOR ADMISSION NO. 14

In January, 1994, FACTI sent a mailing to hundreds of people requesting negative information about Scientology entities and related individuals "to assist ongoing litigation."

RESPONSE TO REQUEST FOR ADMISSION NO. 14

Armstrong lacks sufficient information to be able to admit or deny this request numerically. Armstrong objects to this request for admission on the grounds that it is vague and ambiguous as to the terms "negative information," entities" and "related individuals."

REQUEST FOR ADMISSION NO. 15

In February, 1994, you voluntarily provided a declaration to Graham Berry, Gordon Calhoun and/or Lewis, D'Amato, Brisbois & Bisgaard, attorneys for Uwe Geertz.

RESPONSE TO REQUEST FOR ADMISSION NO. 15

Admitted.

DATED: July 21, 1994

HUB LAW OFFICES

By: __________
FORD GREENE
Attorney for Defendant
GERALD ARMSTRONG

VERIFICATION

My name is Gerald Armstrong and as defendant in the above action have received for foregoing responses to CSI's requests for admission and as to the same hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of July, 1994 at San Anselmo, California.

G.

GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: ARMSTRONG'S RESPONSES TO REQUEST FOR ADMISSION AND FORM INTEROGATORY

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

[X] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[ ] (Personal Service) I caused such envelope to be delivered by hand to the offices of the addressee.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: July 21, 1994

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: ARMSTRONG'S RESPONSES TO REQUEST FOR ADMISSION AND FORM INTERROGATORY

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[X]	(State)	I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: July 21, 1994

HUB LAW OFFICES
Ford Greene, Esquire
California Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Plaintiffs
VICKI J. AZNARAN and
RICHARD N. AZNARAN

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N. AZNARAN, Plaintiffs, vs. CHURCH OF SCIENTOLOGY OF CALIFORNIA, et al., Defendants.	No. CV-88-1786-JMI(Ex)
AND RELATED COUNTER CLAIM	**DECLARATION OF GERALD ARMSTRONG IN OPPOSITION TO MOTION TO EXCLUDE EXPERT TESTIMONY**

I, GERALD ARMSTRONG, declare:

1. I was a Scientologist from 1969 to 1981 and held many organizational positions during that period. I was also the defendant in an action entitled Church of Scientology vs. Armstrong, in Los Angeles Superior Court. Judge Breckenridge's opinion in that case was affirmed by the California Court of Appeal on July 29, 1991.

2. Throughout 1980 and 1981 I was L. Ron Hubbard's biographical researcher and archivist. During that period I read

EXHIBIT N

and studied his letter dated September 7, 1955 to the Federal Bureau of Investigation and I provided a copy of it to writer, Omar V. Garrison for his use in a biography of Hubbard. A true and correct copy thereof is attached hereto as Exhibit 1.

3. While I was a Scientologist I read and studied L. Ron Hubbard's Technical Bulletin of July 22, 1956. It was published in the 1970's in bound volumes of Hubbard's "technical" writings and has continued to be published in later volumes up to the present time. A true and correct copy is attached hereto as Exhibit 2.

Under penalty of perjury, pursuant to the laws of the United States I hereby declare that the foregoing is true and correct. Executed this 26th day of August, 1991, at San Anselmo, California.

GERALD ARMSTRONG

EXHIBIT 1 [illegible]

RON HUBBARD. D. PH.

(51)

2965

Box 242
Silver Spring, Md.
Sept. 7, 1955

TO THE FEDERAL BUREAU OF INVESTIGATION
Communist Activities

Gentlemen: L. Ron Hubbard

A series of sudden insanities and disturbances in Dianetic and Scientology groups reached seven last week on the West Coast.

In Atomic Energy's Richland, Washington a young boy who had never been treated with Dianetics or Scientology but whose father Verne McAdams is the local Scientology group leader in Richland suddenly and mysteriously became insane, so suddenly and so thoroughly that the head of the institution for insane in Richland, evidently of good security, suspects the use of LSD, the insanity producing drug so favored by the APA. Two of our ministers in that area at my request went further into the situation and by means we will not detail recovered from the boy information of which his family had been entirely ignorant. On instructions to find the "other psychiatrist" our ministers by this means located an unsuspected one in Atomic Energy's front yard, a man who had been the construction company doctor during the building of Richland and who had then turned psychiatrist and whose name strangely enough is Menkowski (sp?). The boy had evidently had some association with this man before this sudden onset.

00- 79

With this information not yet cool long distance from San Francisco Bay Area notified us of the sudden and inexplicable descent into insanity of one Wanda Collins. She is ravingly insane and yet was completely sane a day ago. Her people and our people cannot account for a missing nine hour period just before this onset. You should be interested in this because Wanda Collins resigned from the Communist Party some time ago, foreswore it and tried to make amends with Scientology and would be a logical candidate for an LSD attack.

SEE REVERSE SIDE FOR ADD. DISSEMINATION.

RECORDED-102

Concurrently with this in Phoenix Arizona

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SEP 20 1955

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our Mr. Edd Clark was suddenly arrested "for practising medicine without a license", and this is very odd because he is the first Dianeticist or Scientologist in five years of world wide operation to be so accused. He could not have been practising medicine because Dianetics and Scientology seek only to assist able people to improve their talents and have no interest in sickness or insanity. He was arrested and without any search warrant all his papers and letters were seized even down to blank typewriter paper and were carried away, a fact which places this matter quite solidly in the field of the F.B.I.. Mr. Clark is a half-blind deaf old man. He was once a chiropractor but has long since ceased to be one. He was told by the County Attorney that the County Attorney meant to "get to the bottom of this thing about Hubbard and Scientology."

The "bottom of the thing" can be found in "Who Knows and What" and "Who's Who in the East" in the local library or from bookstores which carry my books. My own life is about as hard to investigate as a white rock on a summer's day.

It is not uncommon in the past five years to have judges and attorneys mad-dogged at about what a terrible person I am and how foul is Scientology. Persons never named or available step in, spread violent tales and accusations and vanish. This mad-dogging has evidently been done at this County Attorney to prompt such a foolish action. This makes the third civil official in that area to go off half-cocked about Scientology. When it is all done and Scientology has been neatly ruined by the newspapers in the area and when all the charges have been quashed there is no one from whom any recompense can be drawn. "It was all a mistake"---

In 1950 the Dianetics Foundations were violently attacked and discredited. The 200 Foundation employees, when screened, yielded 35 Communist-connected persons. That done the commotion stopped. After three quiet years in the Phoenix area we forwarded to the Defense Department data on brain-washing. Instantly

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we became subject of violence. people were seized by psychiatrists in that area to date and to this day so far as I know are still being held, their sanity shattered.

After we so informed the Defense Department about brain-washing technologies in our hands and offered them, we have been in a state of siége. Understand that we accuse the D.D. of nothing.

Psychiatrists as far north as Seattle have said they were "out to get every Scientologist." An Internal Revenue official has used those very words before witnesses and said he was going to get to the bottom of this thing in Phoenix. People in suspicious condition were sent from one place in Southern California to be "treated by Scientology" for insanity and yet we have no interest in treating anyone, especially the insane. Now two more people go suddenly and inexplicably insane in widely different places both the dame way. All manner of defamatory rumors have been scattered around about me, questioning even my sanity which is fortunately a matter of good record with the Navy as by statement "having no psychotic or neurotic symptoms whatsoever."

I have a wife and three little kids. I have a good many thousand people scattered around the world trying to help their fellow man and I am responsible for these people. I am trying to turn out some monographs on matters in my field of nuclear physics and psychology for submission to the government on the subject of alleviating some of the distress of radiation burns, a project I came east to complete. This lawless and brutal attack on Scientology now spreading evidently to three states will probably not end until a great deal of injustice and human suffering has occurred.

Would you please discover for me or for yourselves the exact names and whereabouts of the persons whose statements inflamed the County Attorney in Phoenix in arresting a half-blind old man and seizing all his books and papers. If we have those names and if we trace them back we will have someplace to start on this madness

(13

(51)

which now re[illegible] into three states. C[illegible]ou do this for us?

I am getting additional copies of the material which was offered to the Defense Department since that agency has not acknowledged or returned anything shipped to it about brain-washing and when I have these copies I will send one to you for this is the only starting place I know about for this outbreak and the matter, while far from conclusive at least tells me that something went astray which was dangerous in the wrong hands.

Could you please have your Phoenix office obtain the names of the people who defamed us to the County Attorney? Your Bay Area and Richland offices have already been apprised of the incidents in those areas.

L. Ron Hubbard

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EXHIBIT 2

HUBBARD COMMUNICATIONS OFFICE
217a Kensington High Street, London W.8

RUSH

July 22nd, 1956

To U.S. ONLY Julie Lewis, Dick Steves, L. Ron Hubbard, Jnr.

To England ONLY Association Secretary (Jack Parkhouse)
Director of Processing (Ann Walker)
Director of Training (Dennis Stephens)

Staff Auditors, Instructors and Auditors close to Operations only.

TECHNICAL BULLETIN OF 22 JULY 1956

I feel the urge to communicate to you the best news since 1950.

I have whipped the problems of the whole track and memory of the past and can resolve the worst cases we have ever had. That is a huge statement *but* I have solved and can untangle in an intensive the problems of the vacuum and havingness plus memory and health and have just done so. Hence the exuberance.

Also, other auditors can solve these in a case as well. NIBS has just cracked two six-year-standing Black Fives using some of this material and Herbie Parkhouse has had considerable luck with solids.

We are now capable of solving Book One style cases to the extreme level of clear.

No wild burst of enthusiasm is here intended. I have to put the finishing touches on a lot of things and the process is still slow—25 to 75 hours. But I've now done it and seen it done to worse cases than any you've had. And that's fact!

Okay. It's not simple. It requires a minute understanding of Book One. It would take me 50 pages to explain all I've lately found about vacuums. You haven't seen the last of me or of study, but you will have seen the last of unsuccessful cases providing only that we have time and environment in which to audit them.

We can make homo novis. (AND give a grin to those who kept standing around bleating, "Where are the clears?")

We know more about life now than life does—for a fact, since *it* was reaching, we can communicate about the reactions.

The process is concerned with "making it solid" combined with effects. It isn't easy. It is wonderfully complex and delicate. But it *has* been done. And it is being done.

Our cases gained but sometimes slumped. Why? Because an electronic vacuum restimulated on the track after sessions, and robbed the case's havingness.

A vacuum isn't a hole. It's a collapsed bank. Every lifetime bank is collapsed into a vacuum.

The formula is—

1. Run pc on start-change and stop for *hours* until he is under auditor's control, in session and (often) exteriorized.
2. Then run him with commands "What are you looking at?" "Good." "Make it solid."

   He will eventually hit a vacuum. (He'd hit it faster on "Recall a can't have" but it's too fast.) Here's the tangle. The vacuum is a super-cold mass or an electric shock. This "drank up" bank electronically (brainwashed him). The energy drunk turned black. Hence black cases. (Does not apply only to black cases however.)
3. Run, interspersed with solids and "objective can't have" on the room, "Tell me an effect object (that drank bank) could *not* have on you," and "Tell me an effect you could have on object." Object may be electrodes or supercold plate or even a supercold glass.

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Caution, handle one vacuum at a time. These vacuums go back for 76 Trillion years. They were the original brainwash thetans did to one another, then psychiatrists (on the whole track) did expertly (modern psychiatrists are *punks*, modern shock too feeble to do more than restimulate old vacuums).

Take the vacuum that comes up running solids, or even "Recall a can't have", whatever it is and solve it as above.

This is delicate auditing. If you restimulate a vacuum too hard, the whole track groups on it.

Read Book One. Add vacuums instead of word groupers, use above and you'll probably get through to success. Nibs did and I had given him less than you have here. Of course, he's one of the best auditors in the business, so go easy. And Herbie Parkhouse is no slouch.

CAUTIONARY

This is true—

1. We have created the *permanent* stable clear.
2. In creating him we have a homo novis in the full sense, not just an Operating Thetan.
3. We now know more than life. An oddity indeed!
4. We now know more about psychiatry than psychiatrists. We can brainwash faster than the *Russians* (20 secs to total amnesia against three years to slightly confused loyalty).
5. We can undo whatever psychiatrists do, even the tougher grade from away back. We can therefore undo a brainwash in 25 to 75 hours.
6. We can create something better than that outlined and promised in Book One.

BUT

1. We need to know more and be more accurate than ever before about the time track and auditing. I have not given a thousandth of what I know about this.
2. We have a new game but also new responsibilities amongst men.
3. This data in the wrong hands before we are fully prepared could raise the Devil literally.
4. Because we know more than the *Insanity Gang*, we're not fighting them.
5. Because we can undo what we do, we must retain a fine moral sense, tougher by far than any of the past.
6. We can create better than in Book One now *only* if we know Book One and know our full subject.

AND WE DO NOT YET KNOW ALL THE SAFETY PRECAUTION TO BE USED.

I will be giving this data in full at the Games Congress, Shoreham Hotel, WASHINGTON, D.C., August 31st, to September 3rd, 1956.

The exact regimen of this will be SLP 8 and will include the total picture of separating valences from bodies (which must still be done by the auditor, a formula I now have).

I have given you this data in this bulletin at this time because now I know I know and I want you to share in seeing the surge of vision which will be our future.

L. RON HUBBARD

P.S. (Actually, contrary to rumor, it *hasn't* all been done before. If it had been, the guy who is saying it has would be clear!)

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EXHIBIT 4 PAGE 9

[SHOT: Studio setting]

2972

NARRATOR: A former member of the Church of Scientology claims he has damaging information about the organization, but he's being silenced by a Court Order. Don Nab explains.

[CNN CAPTION: SCIENTOLOGY.]

[SHOT: Close up of Armstrong with Ford Greene behind him. Then a pan of the courtroom, with attorney Andy Wilson arguing and a shot of the Judge.]

Don Nab: Gerald Armstrong says he knows a lot about the Church of Scientology and he's fighting in court for the chance to tell it. A former archivist of the organization he had first hand access to records of Scientology's controversial founder, L. Ron Hubbard.

[SHOT: Close up of Armstrong in an office. Don Nab narrating]

Gerald Armstrong: I'm an expert in the misrepresentations Hubbard has made about himself from the beginning of Dianetics until the day he died.

Don Nab: But that's about all that he can say legally. The Church of Scientology slapped Armstrong with a Court Order to prevent him from talking about what he may know.

[SHOT: Excerpt of Video tape of 1986 settlement signing.]

Heller: You are going to sign this of your own free will.

Armstrong: Yes.

[CNN caption: December 1986.]

Heller: OK. You're not suffering from any duress or coersion which is compelling you to sign this document.

[CNN CAPTION: Video provided by Anti-Scientology Attorney.]

Armstrong: No.

Heller: Alright, ...

Don Nab: As part of the lawsuit settlement documented by Scientology on this video tape, the Church paid Armstrong $800,000. In that settlement Armstrong agreed not talk about the Church, it's documents, or its founder.

[1ST SHOT: Wilson and Hertzberg sitting at counsel table.]
[2ND SHOT: Greene arguing at counsel table.]

Don Nab: Now, the Church of Scientology wants to block Armstrong from working with anti-Scientology attorney, Ford Greene.

Ford Greene: Gerald Armstrong possesses information about the Church of Scientology on first-hand basis that undercuts a lot of the claims that they make to the public on a daily basis in advertisements on TV and advertisements in newspapers.

[CNN CAPTION: Ford Greene, Anti-Scientology Attorney.]

[SHOT: Bartilson at counsel table with a stack of papers.]

Don Nab: Greene hired Armstrong as a paralegal, to help him with a lawsuit against Scientology in Los Angeles.

[SHOT: Wilson arguing at counsel table.]

Don Nab: Attorneys for the Church of Scientology claimed that Armstrong was breaking his settlement contract.

Andy Wilson: $800,000. $800,000 was paid to that man. And now that he's spent the money, he comes into this court and he says, "I don't have to keep my part of the bargain."

[CNN CAPTION: Andrew Wilson, Scientology Attorney.]

[SHOT: Judge Dufficy at Bench.]

Don Nab: Scientology won this round. The gag on Armstrong remains, for now.

[SHOT: Close up of Armstrong at counsel table.]

Don Nab: Armstrong is not alone. 12 former Scientology members have accepted money to settle lawsuits with the Church.

[SHOT: Pleading packs on counsel table.]

Don Nab: The settlements included, promises to remain quiet and take no part in further litigation against the Church.

[SHOT: Greene in law office.]

Ford Greene: It'll be extremely damaging because Scientology has spent a whole ton of dough, on keeping not only Gerry silent but a lot of other people silent. And if Gerry's case unravels, it's the first domino, and all the rest of them are going to unravel ...

[SHOT: Green in law office with interviewer.]

Don Nab: Attorney Greene says, Armstrong's knowledge of Scientology can prove the Church is not what it says it is.

[SHOT: Outside of the Courtroom. Armstrong and Phippeny prominent.]

Don Nab: Scientology says, Armstrong accepted a lot of money not to discuss the Church and should keep his word. Don Nab, CNN, San Raphael, California.

Jerold Fagelbaum, Esq.
LAW OFFICES OF JEROLD FAGELBAUM
2029 Century Park East, Suite 3270
Los Angeles, California 90067
Telephone: (310) 286-7684

Attorneys for Defendants and Counter-Claimants
DAVID MAYO, AND THE CHURCH OF NEW CIVILIZATION

Gary M. Bright, Esq.
BRIGHT & POWELL
5464 Carpinteria Avenue, Suite E
Carpinteria, California 93013
Telephone: (805) 684-8480

Attorneys for Defendants and Counter-Claimants
DAVID MAYO, CHURCH OF NEW CIVILIZATION, and Defendants
JOHN NELSON, HARVEY HABER, VIVIEN ZEGEL AND DEDE REISDORF

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

RELIGIOUS TECHNOLOGY CENTER, a California corporation, et al.,

Plaintiffs,

vs.

ROBIN SCOTT, an individual, et al.

Defendants.

RELIGIOUS TECHNOLOGY CENTER, a California corporation, et al.,

Plaintiffs,

vs.

LARRY WOLLERSHEIM, an individual, et al.,

Defendants.

AND RELATED COUNTER-CLAIMS

CV 85-711 JMI (Bx)
CV 85-7197 JMI (Bx)

SUPPORTING DECLARATION OF GERRY ARMSTRONG TO DEFENDANTS' AND COUNTER-CLAIMANTS' OPPOSITION TO PLAINTIFFS' AND COUNTER-DEFENDANTS' MOTION FOR PROTECTIVE ORDER RE FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS OR THINGS AND FOR SANCTIONS

DATE: June 10, 1992
TIME: 5:00 P.M.
CTRM: Hon. James G. Kolts
Special Master,
Pasadena, Hilton

DECLARATION OF GERRY ARMSTRONG

I, Gerry Armstrong, declare:

1. I am a party to that litigation known as Church of Scientology of California v. Gerald Armstrong, L.A.S.C. Case No. 420153 (hereinafter the "Armstrong" litigation).

2. I am familiar with the pleadings and records in the Armstrong litigation and submit this Declaration based upon my own personal knowledge of the matters contained herein, and if called as a witness, could and would competently testify thereto.

3. Exhibit "A" hereto are true and correct copies of Reporter's Transcripts of Proceedings held in the Armstrong litigation before the Honorable Paul G. Breckenridge, Jr.

4. Attached hereto as Exhibit "C" is a true and correct copy of a Supplemental Affidavit filed by myself in that litigation known as Tonja Burden v. Church of Scientology California, United States District Court, Middle District of Florida, Case No. 80-501-CIV-T-K.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Declaration is made and executed this 27th day of May, 1992 at Los Angeles, California.

GERRY ARMSTRONG

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 57 HON. PAUL G. BRECKENRIDGE, JR., JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,
Plaintiff,
vs.
GERALD ARMSTRONG,
Defendant.

MARY SUE HUBBARD,
Intervenor.

No. C 420153

REPORTERS' TRANSCRIPT OF PROCEEDINGS

Friday, May 11, 1984

APPEARANCES:

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NANCY L. HARRIS, CSR 644
HERBERT CANNON, CSR 1923
Official Reporters

COPY

APPEARANCES:

For the Plaintiff:

PETERSON & BRYMAN
BY: JOHN G. PETERSON
8530 Wilshire Boulevard
Suite 407
Beverly Hills, California 90211
(213) 659-9965

-and-

ROBERT N. HARRIS
The Oviatt Building
617 South Olive Street
Suite 915
Los Angeles, California 90014
(213) 626-3271

For the Intervenor:

[redacted]

LITT & STORMER
BY: BARRETT S. LITT
Paramount Plaza
3550 Wilshire Boulevard
Suite 1200
Los Angeles, California 90010
(213) 386-4303

[redacted]

-and-

BARRETT S. LITT
BY: MICHAEL S. MAGNUSON
The Oviatt Building
617 South Olive Street
Suite 1000
Los Angeles, California 90014
(213) 623-7511

[redacted]

For the Defendant:

CONTOS & BUNCH
BY: MICHAEL J. FLYNN
-and-
JULIA DRAGOJEVIC
5855 Topanga Canyon Boulevard
Suite 400
Woodland Hills, California 91367
(213) 716-9400

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Q A 35-foot sailboat?

A Yes.

Q Okay. Now did that situation with Mr. Parsons end up in litigation?

A Yes.

Q And are those litigation records under seal?

A Yes.

Q Now were there other records that you found under seal that indicated Mr. Hubbard's physical condition up until 1949?

A There is a great number of records on that subject.

Q Okay. Now after you found that these contradic existed, what did you do?

A Well, right at this time or shortly thereafter Laurel was signed to a mission, a mission which is called MCCS, Mission Corporate Category Sort-Out, and she was going to be having extensive dealings with Mr. Hubbard's attorney, Alan Wertheimer, and his tax attorney at that time, Jim Murphy, both of whom had offices in Beverly Hills. So we were at that time in Gilman Hot Springs and it was decide that it would make more sense if we moved into Los Angeles.

Laurel was to move. I was at some point asked to be her second on the mission. There was a mission in charge, and if there is more mission personnel, they are designated second, third, fourth, fifth, sixth et cetera, and I was to be the mission second.

Q And this was what they called the MCCS mission

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A Right.

In addition, all the top personnel of the CMO at that point also moved into Los Angeles, and they moved all the international management personnel from Gilman Hot Springs into Los Angeles, so it made more sense because we would be dealing with those personnel and dealing with attorneys to move into Los Angeles. So I moved at that point along with Laurel, and I moved in all the materials which were from archives, the archives which I was establishing at that point. I principally had only the materials from Del Sol, so I moved into Los Angeles.

Q And the purpose of the move was because of the MCCS Mission?

A Right.

Q Now, did the MCCS Mission become inter-related to the biography project over the next year and a half?

A Yes.

Q And did it become an integral part of the biography project?

A Well they were connected. I wouldn't say that MCCS was a part of the biography project. Maybe the biograph project was part of MCCS.

MCCS dealt with a number of subjects, one of which was the biography contract and the biography project.

Q Now, what was the purpose of the MCCS Mission?

MR. HARRIS: I will object, Your Honor; no foundation

THE COURT: Well if you know.

THE WITNESS: The purpose of the MCCS Mission was to allow or set up the legal procedures or steps or mechanisms by which Mr. Hubbard could retain control but not be responsi for the organization.

Q BY MR. FLYNN: How do you know that, Mr. Armstr

A Because I was involved in the initial briefing and in the correspondence from Mr. Hubbard which were given to Laurel and myself at the outset.

I also was involved in a number of meetings, discussions with Laurel Sullivan and similar discussions with Alan Wertheimer.

MR. HARRIS: Your Honor, at this point I will move to strike as a conclusion of the witness based upon hearsay, or if not, attorney-privileged communication which he is [redacted] disclosing at this point.

The MCCS Mission, the subject of the corporate sort-out, involved many attorneys and involved church personne [redacted] who were in liaison with such attorneys in respect to church matters and sorting out corporate church matters as well as the relationship of the founders of the church, and on that basis I'd move to exclude any further testimony in respect to that.

MR. LITT: Furthermore, Your Honor, the church can provide documents that show what the purpose of this is. This implication -- there is no foundation for his statement statement of what he recalls.

If the court wants, we can provide in camera to the court whatever documents are necessary to show that this whole activity was directed by attorneys for the purpose of determining the various inter-relationships between a number of different church organizations and the founder of Scientology.

This whole subject matter is wrong. The characterization that has been given, there is no foundation for. It is inaccurate and it cannot be used as an excuse to not begin to probe into this area.

We are very concerned about this question. We are prepared to provide the court whatever materials are needed. We are prepared to bring the attorneys involved.

We have some memoranda which can be submitted to the court by this afternoon on this area, and we just don't think it can be gotten into. This is just improper. Everything that was done on this mission, this was a mission to regain attorneys, gather facts for attorneys, provide thos facts to attorneys, get advice from those attorneys about how to solve a variety of problems concerning these inter-relationships.

This man was an employee of the church at the time when all of this occurred, and to the extent he has any such knowledge, he may not divulge it. He may not characteri it.

MR. FLYNN: If I could be heard, Your Honor.

THE COURT: All right.

MR. FLYNN: At this point, I have in my preparation of the examination restricted it to the briefing with Laurel Sullivan which was just described to the court laying a foundation for what is going to become readily apparent to be a very important issue in this-lawsuit for the following reasons:

The MCCS Mission worked together with the biography project because the biography project in the collection of the documentation, particularly documents relating to the Hubbard-Explorational Company Operation Transport Corporation, OTS, and a corporation called Religious Research Foundation, all of which documents or most of which documents Mr. Armstrong collected, basically revealed that from --

MR. LITT: Your Honor --

THE COURT: Let counsel finish.

MR. LITT: Your Honor, I am afraid -- if we can have an in-camera thing on this. This has happened before. He cannot refer to contents of any privileged conversations.

MR. FLYNN: I won't, Your Honor.

MR. LITT: Okay.

MR. FLYNN: I won't refer to any privileged communicati

The sealed documents in part, together with the other 98 percent of documents that are in the Armstrong Archives which are not here, basically reveal that throughout the period of time that Mr. Armstrong was working for Mr. Hubbard, as he has testified to, and he believed that Mr. Hubbard was only making $35,000 per year from the church, as he has testified to, and as he testified was represented to everyone -- everyone that he knew have related to the Church of Scientology.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 57 HON. PAUL G. BRECKENRIDGE, JR., JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Plaintiff,

vs.

GERALD ARMSTRONG,

Defendant.

MARY SUE HUBBARD,

Intervenor.

No. C 420 153

REPORTERS' DAILY TRANSCRIPT

Thursday, May 24, 1984

VOLUME 19A

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APPEARANCES:

(See Volume 15)

COPY

NANCY HARRIS, CSR #644
HERBERT CANNON, CSR #1923
Official Reporters

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I did the one to Los Angeles and then a repeat one to Los Angeles.

I did some local ones. I am not familiar with them all from the ship. I have done them. I have done probably 16 or 18 over the whole time I was in Scientology.

Q And who sent you on these missions?

A Well, there would be a briefing officer who briefed you and sometimes you would get a chance to talk to L. Ron Hubbard or sometimes you would not. Sometimes he would send notes down; sometimes he would do an evaluation and you would read that evaluation if you were the one selected to go.

Q And, for example, the LA mission was to rejuvenate -- bring up the gross income of a LA organization?

A That was basically it.

In that particular case that was one mission which was briefed, written by him, briefed by him and monitored by him for a number of months.

Q Now, without going through all of the posts and all of the missions that you held, at one point you became the senior Pers PRO of L. Ron Hubbard?

A Yes.

Q When was that?

A That was in November, 1973.

Q Just prior to that time had you held a post in the Hubbard communications office?

A Yes.

Q Now, what essentially were your duties as a senior personal public relations officer of L. Ron Hubbard?

A My first duty was to assist LRH in his activities in production. And that was stressed routinely as my first duty.

Q What does that mean?

A What that meant was if he went ashore or if he conducted any kind of personal or management business at all, I was to assist him with public relations. We called it flanking, flanking his production with PR.

That meant preparing people for his activities; sometimes assisting him with his production directly; anything from management to photography to film scripts to public surveys to writing promotions, writing dust jackets for books, editing his books or any such. There is a long list of different types of activities.

I also had as a duty to stay briefed on all of his activities so that I could flank those either directly or indirectly.

Q So as long as you were senior personal public relations officer you had personal knowledge of what L. Ron Hubbard was doing in connection with the management of Scientology organizations?

A Yes.

Q Was there a shore story in connection with whether he was managing Scientology organizations?

THE COURT: At what point in time, counsel?

MR. FLYNN: Let's take on board the ship first.

THE COURT: That is up to 1975 per the witness' previous testimony. Okay.

Q BY MR. FLYNN: Up to 1975, Miss Sullivan.

A Yes. There was a shore story that he was consultant for OTC. And as such, gave advice and directives to officers of the corporation to carry out their duties.

Q And was there a public relations line to the outside as to whether or not he was involved in the management of Scientology organizations?

A Yes.

Q And what was that?

A That he was very much on the management lines; that he was doing data evaluations; that he was in regular communications with Scientology executives; that, in fact, there were several pictures of him taken and posted with those people to promote that.

Q This is to Scientologists?

A Yes.

Q Now when I say that was within the organization, that was the public relations line?

A And to the public.

Q Now, with regard to government and officials of various ports you went to, was there a public relations line or shore story with respect to what he was doing?

A Yes.

Q And what was that?

A That was that he resigned from all directorships in 1966. Had no direct contact with Scientology organizations and often wrote books or engaged in his hobbies of photography, and that was very much played down, his relationship, but that he still retained his position as founder and, of course, gave advice from time to time.

Q Was that latter public relations story true?

A No.

Q And how long did you remain senior personal public relations officer from 1973 forward?

A All together about eight years.

Q And there were periods of time when you were removed from that post?

A Yes. The longest removal for an eight month period.

Q And when was that?

A That was in 1978 and through to '79.

Q And what happened then?

A I was sent to the RPF on the List 1 project.

Q What was the List 1 project?

A That was a culling of folders for List 1 rock slams, the meter read and sec checking to determine if you had a List 1 rock slam.

Q What was a List 1 rock slam?

A Well, it is an agitated motion on the E meter which indicates that one has crimes against the subject which is being discussed.

My particular List 1 rock slam was on myself, which was later found to be not so, but --

Q Who were the subjects on List 1?

A LRH, MSH, Scientology, Orgs, the E meter, preclears, auditors, Scientology-related subjects. I think there were about 20 things on the list.

Q Now was this in the middle of the Department of Justice investigation, if you know, that this project took place?

and they by now were growing up and they were writing their own programs which he would approve and issuing these to management.

Q And during that period of time were there programs or operations to prevent any process servers from serving L. Ron Hubbard?

A Yes.

Q And what were those?

A They were essentially issued to my husband at the time, Fred Rock, who was the port captain or the PR person representing the Friends of Norton Karno, and we did drills on the staff, how to handle subpoena service and how to answer that he wasn't there and that sort of thing.

Q And, for example, did Mr. Hubbard have a get-away car on the premises?

A Yes.

Q Now, in early 1980 do you recall the threat of a governmental raid?

A Yes.

Q And what was that?

A Well there had been a raid and it seemed that the Guardian's office had information from somewhere that there was another raid imminent, and their concern was that the Gilman Hot Springs property would be raided because at that time our security in our location was getting to be pretty well known, and what was going on there was getting to be pretty well known, and so they suspected that a target for an attack or a raid would be Gilman Hot Springs.

At that time as an executive, I was briefed with other heads of the organizations at Gilman Hot Springs that that looked like it was going to occur and that we were going to go on kind of an all-hands alert to handle that situation.

Q And what was done to handle it?

A Well the major thing that was done was to get rid of extraneous material that might be taken in the shredding project.

Q And how massive a shredding project took place?

A Well, in the garage there was a top of the line shredder tht we used to call Jaws which was a massive machine that went 24 hours a day.

There were also teams which buried material under the floorboards and in the grounds of the property which is about a square mile, an ex-golf course, 27 hole golf course. So they were out digging and that sort of thing.

Q What types of material was buried?

A Valuable documents that we didn't want to shred but which were so sensitive that they couldn't be found or seen.

Q Such as the Commodore's Messenger logs; were they buried?

A Yes.

Q What were they?

A They were a record of every order he ever gave on the ship and the person's response to it on a 24-hour basis.

Q And the orders while he was a La Quinta and Gilman Hot Springs, et cetera?

A Yes.

Q And these Commodore Messenger orders reflected the control mechanism of L. Ron Hubbard throughout that period of time of Scientology organizations?

A Yes, in two ways, by substance and by pure volume.

Q What was the volume of it?

A Many ledgers, stacks of ledgers.

Q Approximately how many people were involved in the shredding process?

A Well, everyone on the property was involved, and at that time I believe there was about 180 people, but people who were engaged in the motor pool and grounds were, of course, didn't have very much material to go through, so they weren't involved for the entire time, maybe a couple of hours.

Q What were the ground rules or the criteria by which documents were selected to be shredded?

A Well, anything that indicated that L. Ron Hubbard controlled the church or was engaged in management was to be shredded.

Q Do you know why that was, Miss Sullivan?

A Yeah. It was so that if there was a raid, that no information about his control of the church would be in the hands of the opposition.

Q And do you know whether that had to do with inurement issues and money issues as to who controlled Scientology moneys?

MR. HARRIS: Objection; compound and leading.

THE COURT: Overruled.

Q BY MR. FLYNN: And incidentally at that time were you familiar with the practice of the board of directors giving undated letters of resignation?

A Yes.

Q And over how long of a period had you been familiar with that practice?

A Since approximately 1974 on the ship. I knew about OTC and I had heard comments about it earlier.

Q Do you know whether Kima Douglas was the director of RRF, Religious Research Foundation?

A That has to do with --

THE COURT: All right then the privilege will be sustained at this point.

Q BY MR. FLYNN: Now, Miss Sullivan, based on your observations in the personal office of L. Ron Hubbard between 1973 and 1980, did you observe as to whether there was any corporate integrity to the various Scientology organizations

A Well I did observe it, yes.

Q And what did you observe?

A I observed that there was basically none.

Q And had Mr. Hubbard issued a publication on corporate integrity?

A Yes. And there were publications from the Guardian's Office.

Q And were those essentially shore stories?

A Yes.

Q Did all organizations do whatever Mr. Hubbard told them to do during the period of time that you were involved?

MR. HARRIS: How in the world, Your Honor, could she --

THE COURT: To the extent you have knowledge, you may answer; to the extent you don't have knowledge you should so state.

THE WITNESS: In my experience every person in every organization made their best efforts to follow his instructions to the letter.

There was, of course, dissension from time to time and that person didn't usually last very long.

Q Now, I believe you -- did you give both criteria that were used to determine what documents were going to be shredded or just one criteria?

A I didn't give all of them.

Q What were the other criteria?

A Any evidence that LRH had been on that property; involvement in international affairs. From time to time there were independent judgments made. Some of the things that she believes she last saw you in 1977, I think it was.

When did you last see Mary Sue Hubbard?

A Late May 1981.

Q And where did you see her?

A At the New Otani Hotel in Los Angeles.

Q And what were the circumstances under which you saw her at that time, Miss Sullivan?

A I arranged a conference room for her and Mulligan Henning Heldt, Dede Reisdorf, David Miscavige, Bill Franks and possibly one other to discuss some disagreement over the MCCS mission.

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Q And who attended?

A Those people and possibly one other.

Q And at that time what was Bill Franks' position?

A Executive director international.

Q Theoretically, was he the highest official in the Church of Scientology?

A Yes.

Q In fact was he?

A No; in fact, he sat with me in the lobby in the last half of the thing while these other guys hashed it out.

Q The other guys being who?

A Mary Sue, Henning Heldt, Ann Mulligan, Diane Riesedorf, David Miscavige, possibly Gale Irwin. That is all I recall.

Q And they were hashing out aspects of MCCS?

A Yes.

Q Now, what was Henning Heldt's position at the time?

A He was management liaison for the office of Controller. And so communications to management were going through him and to CMO and so on.

Q And in your experience were these people the people who were running the organizations under L. Ron Hubbard?

A Yes.

Q And David Miscavige was there; is that correct?

A Yes.

Q What was his position at that time?

A He was chief officer of the CMO.

Q Was it understood by the people present that he was the communications link to L. Ron Hubbard at the time?

MR. HARRIS: Understood by this witness, Your Honor?

THE COURT: To the extent of your knowledge of the subject, you may answer it.

MR. LITT: Your Honor, may I say that it appears that Miss Sullivan herself did not attend this conference.

THE COURT: She was part of it. Apparently they were outside when other things were happening.

The question is whether or not Mr. Miscavige was the missing link.

MR. LITT: As the people at the meeting understood. But it wasn't understood that she was at the meeting.

THE COURT: I got the impression that she was there during part of it.

THE WITNESS: That is so.

THE COURT: To the extent that you have knowledge, what was your knowledge on that subject?

THE WITNESS: About the link to L. Ron Hubbard?

THE COURT: Yes.

THE WITNESS: David Miscavige told me that there was a line to him, but that it wasn't something that he could originate and make sure that communication got to him, but that if materials were called for, he could arrange for materials to go to him and requested documents of me and communications from me and even briefing reports from me so that if in fact these things were called for, that they would be ready to go.

And I did this a number of times.

Sometimes it appeared that there had been a response because of authorization to plans. I didn't actually see a response, but it seemed to me that confirmations were received.

Q BY MR. FLYNN: Now, was there at that time a reason why the location of L. Ron Hubbard, to your knowledge, was being kept secret?

THE COURT: Assuming that this had nothing to do with information that you acquired in this MCCS program. If it involves that, then you tell us that it does and we won't go any further.

THE WITNESS: There was one reason. And that was -- well, there were a number of reasons. Some of them involved MCCS.

One of them was to avoid subpoena in a lawsuit.

Q BY MR. FLYNN: To your knowledge were there lawsuits going on at the time in which Mr. Hubbard was the defendant?

A Yes.

Q Do you receive communications from Mr. Hubbard in 1980 or 1981?

A Yes, I did.

Q And this was after he had left and supposedly gone into seclusion?

A Yes.

Q What communications did you receive?

THE COURT: I'll sustain the objection.

Q BY MR. FLYNN: Then you say, "right now it doesn't affect what you are doing."

What does that mean?

A Well, what it meant was that Gerry was going about his business, performing his duties and supplying Omar. He was taking care of the documents. They were in safekeeping. He kept excellent receipts. So if there was ever to be any reimbursement for funds spent and then to sort out that, this wouldn't be a problem. So he could just carry on with his job and let the legal work catch up to him.

Q And this legal was all ongoing to determine who worked for who and where the monies were coming from and who owned what; is that correct?

A Yes.

Q Then you say, "You are working for the CSC and supported by SOR belonging to CSC."

What did that mean?

A Well, that is kind of a shore story.

What it means is that the money that Gerry was getting was coming from the Church of Scientology of California reserves.

Q Who controlled those reserves, to your knowledge?

A A number of people had access to them.

L. Ron Hubbard had control.

Q Now, you say it was a shore story; was it a shore story similar to the Friends of Norton Karno shore story?

A Well, in a sense. But there is also some aspects to it that are part of MCCS.

It makes it difficult for me to answer.

Q What are those aspects?

MR. HARRIS: Well --

THE COURT: I'll sustain the objection.

MR. FLYNN: Your Honor, they introduced the exhibit.

THE COURT: Well, that is true. But I don't know that that would necessary work a waiver of the whole kit and kaboodle here.

Q BY MR. FLYNN: You say, ". . .when the new corps get set up, you'll be paid by the new corp. But very likely will receive your project funds by CSC."

What does that mean?

A Well, CSC had a responsibility to supply and cooperate with the biography project and so that they would do so, as the new corporation ASI would get set up or some similar named corporation.

Q ASI being Auther Services Inc.?

A Yes.

Q The management company for L. Ron Hubbard?

MR. HARRIS: Objection, Your Honor.

THE COURT: You don't have to keep repeating things.

I'll sustain the objection.

THE WITNESS: That it was evidence to me that is where Gerry would go. But in the meantime, that is where he got

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THE WITNESS: Your Honor, could we have the question --

THE COURT: Read the question, please.

THE REPORTER: The question was taken by the other reporter, Your Honor.

THE COURT: The question was was David Miscavige the communications link between Author Services and LRH.

THE WITNESS: Sometimes yes and sometimes no. It is not -- no. The --

If your question means is he the absolute communications link between L. Ron Hubbard and Author Services, the answer is no.

MR. FLYNN: That was not the question.

THE COURT: Then I misstated it.

Q BY MR. FLYNN: Between February, 1980 and the present time has he been the communications link between L. Ron Hubbard and Author Services Inc.?

MR. HARRIS: I'll object to that as irrelevant and calling for a conclusion.

THE COURT: Well, when did Author Services Inc. come into existence? He could have been the communicator before that time.

MR. FLYNN: I'll withdraw it and back up a little bit, Your Honor.

Q Before you were the Deputy Executive Director for Author Services Inc. what was your position in that organization if any, Mr. Spurlock?

A Corporate Affairs Director.

Q And when did you take on that post?

2-2

A In March of 1982.

Q And when did you take on the post of Deputy Executive Director?

MR. LITT: Objection. Asked and answered.

Q BY MR. FLYNN: That is February, 1983; is that correct?

A Correct.

Q Do you know when Author Services Inc. was incorporated?

A I believe it was somewhere around October, 1981.

Q Did you play any role in the incorporation of that organization?

A No, I didn't.

Q Do you know who the incorporators were?

A I believe it was Ron Pook.

Q Was he the only incorporator?

A I don't know.

Q Is he currently with the organization?

A No.

Q Do you know who the present Board of Directors of the organization are?

A Yes.

Q Who?

A Norman Starky; Fran Harris; John Alcock.

Q Have you ever been a member of the Board of Directors of Author Services Inc.?

A No.

Q Do you know whether or not those individuals have signed undated letters of resignation?

MR. HARRIS: It is irrelevant, Your Honor. Object.

THE COURT: I'll sustain the objection.

Q BY MR. FLYNN: Prior to March, 1982 what was your position, Mr. Spurlock?

A Immediately prior? Way prior? Do you mean --

Q Within the prior year.

A Within the prior year I worked for Church of Scientology of California.

Q In what position?

A Investment Officer International.

Q What were your duties in that position?

A I had a variety of duties.

I was basically an assistant to WDC on investments and financial matters.

Q Did you basically invest the church's monies?

MR. HARRIS: Church of Scientology of California monies?

Q BY MR. FLYNN: Church of Scientology of California; is that what you did?

A I didn't do it personally.

Q You advised as to investments of the Church of Scientology of California's monies; is that correct?

A That would be a fair statement.

Q Were those called "Sea Org Reserves"?

A Yes.

Q And how long did you hold that position?

A From about April, 1979 to November, 1981.

Q In November, 1981 what position did you hold after Investment Officer International of CSC?

A I went to work for R accounts or LRH through R accounts to assist in some estate planning matters. There was no formal title.

THE COURT: Is this Author Services now a profit corporation or nonprofit corporation?

THE WITNESS: It is a profit corporation.

THE COURT: Who were the shareholders if you know?

THE WITNESS: The employees. I don't know the exact breakdown.

THE COURT: What employees?

THE WITNESS: Pardon me?

THE COURT: What employees?

THE WITNESS: Of Author Services.

THE COURT: Does that include you?

THE WITNESS: Yes.

THE COURT: How many employees does the company have?

THE WITNESS: 24, 25.

THE COURT: They are each shareholders?

THE WITNESS: No.

THE COURT: How many employees are shareholders?

THE WITNESS: I really don't know.

THE COURT: Is LRH a shareholder?

THE WITNESS: No.

THE COURT: Does anybody hold shares in his behalf to your knowledge?

THE WITNESS: No.

THE COURT: How about Mary Sue; is she a shareholder?

THE WITNESS: No.

THE COURT: Does anybody hold shares in her behalf, if you know?

THE WITNESS: No.

THE COURT: Any trust that holds the shares?

THE WITNESS: No.

THE COURT: You may continue, counsel.

Q BY MR. FLYNN: There is no trust, Mr. Spurlock, that holds any shares on behalf of L. Ron Hubbard; is that your testimony?

A That is right.

EXHIBIT C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

TONJA BURDEN, Plaintiff v. CHURCH OF SCIENTOLOGY OF CALIFORNIA, Defendants	)	CASE NO. 80-501-Civ-T-K

SUPPLEMENTAL AFFIDAVIT OF GERRY ARMSTRONG

I, Gerry Armstrong, hereby depose under pains and penalties of perjury as follows:

1) I have personal knowledge of policies of the Church of Scientology relating to the following facts, or I have had possession of documents and tapes relating to the following facts:

2) On or about September 28, 1980, a meeting took place in the Cedars Complex at Los Angeles, California, one of the corporate headquarters of the Church of Scientology of California, (CSC). The meeting was attended by Charles Parselle, (C.P.), Deputy Guardian for Legal, (DGL), at WW, who was in charge of all legal activities for Scientology

throughout the world and Laurel Sullivan, (L.S.), the personal representative of L. Ron Hubbard, a long term senior executive of Scientology and then In Charge, I/C, of a special legal Mission, (MCCS), which mission was seeking to conceal Hubbard's control of Scientology and develop strategies to effectuate actual control by Mr. Hubbard without incurring legal responsibility. Dick Sullivan, a junior executive of the MCCS mission, pursuant to orders, tape recorded the meeting. The individuals in attendance at this meeting are knowledgeable of the fact that Mr. Hubbard has always controlled all aspects of CSC including its bank accounts, policies, etc.

3) At the meeting, the following exchange took place relating to the corporate structure of the Organization and Mr. Hubbard's position in the structure. This exchange was tape recorded with the knowledge and assent of all present:

> L.S. "There is no need for them to be the actual Board of Directors.
>
> C.P. There's no need at all for them to be the Board of Directors in order for them to run the Church, but the authority of the Church has to lie somewhere, and on some basis. And since the Church has always chosen a corporate entity, eventually the authority is going to have to vest with the Board of Directors. The only reason it's worked so long without that occurring is because is because everyone has effectively been bound by the authority of LRH and have ignored corporate lines." (Emphasis supplied)

4) It was common knowledge among senior executives of CSC that Mr. Hubbard had absolute control of all large corporate bank accounts and that he, alone, had the authority to order withdrawal of very large amounts from these accounts. He controlled these accounts through various people, mainly CMO members. Neither the "Directors" of CSC nor any other CSC executives had such authority or control. This policy was practiced throughout the period of at least 1970 to when I left the Organization in December, 1981.

5) Mr. Hubbard received millions of dollars through a dummy corporation (R.R.F.), specifically set up to funnel money to him which should have been paid to CSC by foreign customers paying for "Flag" services. "Flag" is part of CSC. At a strategy meeting on September 29, 1980, held by several high ranking senior executives of the Church, the purpose of which was to develop legal strategies to shield Mr. Hubbard but funnel corporate money to him, the following exchange took place. This exchange was tape recorded with the knowledge of all present. The following people were some of those present:

a. Charles Parselle, Deputy Guardian Legal World Wide, (CP)

b. Alan Wertheimer, attorney for L. Ron Hubbard working with Laurel Sullivan and the MCCS Mission, (AW)

c. Laurel Sullivan, L. Ron Hubbard's Personal Representative and I/C of MCCS, (LS)

d. Dick Sullivan, husband of Laurel Sullivan and a junior executive on the MCCS Mission, (DS)

The exchange was as follows:

CP: "Right. That's a very helpful exercise. And also I may say this, that it is very very helpful for LRH to have his own attorneys, i.e. yourselves, because for many years we have been missing this essential service and we have done this exercise of trying to think of the way it would be on the one side and trying to think of the way it would be on the other side and it really doesn't work very well to do that. It doesn't work to represent both parties at the same time. Especially if you also happen to be a Scientologist and involved in that particular way as well. So, I'm with relief representing the Church interest and I certainly invite you to represent Ron's interest as much as you can. I say that RRF, which is as far as I am concerned part of the Church, made a mistake when it paid over that 2.1 million. RRF had nothing... We could say that RRF and [illegible] part of the same Church, even though they are corporately different. I mean if anything was a sham corporation, it's RRF.

AW: "As I understand it, RRF receives monies that would otherwise be due the California Church for services rendered by the California Church to people outside of the country who decide to pay the Church from outside the country.

CP: "That's right.

AW: "So that's basically right?

CP: "That's right. Foreign - non-US Scientologists who wish to pay for Flag services pay RRF and then go to Flag and take the services. RRF was originally supposed to hold the money until the service was rendered and then pay it to CSC. But in fact, it has not really done that and so CSC has rendered much service to many foreign Scientologists and RRF has got the money. Fortunately for us, RRP wasn't incorporated until 1973 and we are now litigating 1972. So, I haven't really tried to sort this one out but it obviously is the classic case (loud laugh) of inurement, if not fraud.

(Several laughs.)

LS: "Well, put.

Speaker Unidentified: "It's all privileged.

DS: "The tape recorder is going here, Charles.

CP: "However, as you can see, our financial direction is really weighted to this solution and it is an ongoing battle which I will eventually win because I am the one who has to litigate the case next year and we obviously have to handle RRP. The way we will probably handle it is by simply saying it is part of the same Church, in fact. Now that, of course, goes directly contrary to what you're doing which is to split LRH off from the Church and to talk about the corporate integrity of the different Churches. Unfortunately, the Churches do not have any corporate integrity. And our efforts to give them corporate integrity have not hitherto been successful. Now when you talk around a table like this and there is no Internal Revenue agent present, (whispered: I hope so), bugged or otherwise, one can work out solutions. But when you are a few weeks away from a trial and everything you say is going to be rammed down your throat, then you have to start looking at what actually happened. And it's very difficult to assign significances to things other than what was actually being done at the time. We are trying to say for example that Flag in 1970 is a part of California Church which is probably true but there is no documentation to say that and the truth of the matter is that Marty Greenburg, the accountant, decided to include Flag's accounts in California accounts some years later for convenience. So the decision, what is - the IRS can say and are in fact alleging that Flag in those years, 1970 to 1972,

> was an unincorporated association to which CSC's income inured on a grand scale. We cannot point to a document which says, "Actually Flag was part of CSC during the years of question" because it doesn't exist because no one really thought of it. So, we have to have a different theory of the case which is going to account for all facts and omitted facts which do exist.
>
> Speaker Unidentified: "Is this the why of efforts to create corporate integrity in 1980?"

6) It is common knowledge among senior executives of the Organization and it is the policy of CSC that Members of the Boards of Directors of the various Scientology corporations are mere figureheads, without authority or control, not for internal corporate reasons, but rather to vest control in Mr. Hubbard. I have personal knowledge that in order to carry out this corporate fraud, Organization executives have engaged in various unethical practices including backdating phony Board Minutes and forging signatures.

STATE OF CALIFORNIA,
COUNTY OF Orange } ss.

ON August 11, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared Terry Armstrong known to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

OFFICIAL SEAL
JOALENE M. YOUNG
Notary Public - California
ORANGE COUNTY
My Commission Expires January 29, 1985

WITNESS my hand and official seal.

Joalene M. Young
Notary Public in and for said State.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2029 Century Park East, Suite 3270, Los Angeles, California 90067.

On May 28, 1992, I served the foregoing document described as **SUPPORTING DECLARATION OF GERRY ARMSTRONG TO DEFENDANTS' AND COUNTER-CLAIMANTS' OPPOSITION TO PLAINTIFFS AND COUNTER-DEFENDANTS' MOTION FOR PROTECTIVE ORDER RE FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS OR THINGS AND FOR SANCTIONS** by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

[SEE ATTACHED SERVICE LIST]

[X] BY MAIL - I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid as follows: I am readily familiar with firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with U.S postal service on the same day with postage thereon fully prepaid at Los Angeles, California in the ordinary cause of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] BY PERSONAL SERVICE - I caused such an envelop to be hand delivered by hand to the office of the addressee. ***NOTE SERVICE LIST.**

[ ] [State] I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

[X] [Federal] I declare that I am in the office of a member of the bar of this court at whose direction the service was made.

Executed on May 28, 1992, at Los Angeles, California.

Yolanda Dennison
Type or Print Name

Yolanda Dennison
Signature

SERVICE LIST

Steven Bisbey
Morag Bellmaine
ADVANCED ABILITY CENTER
East Grinstead
52 West Hill
East Grinstead, West Sussex
Kent, England, UK

Robin Scott
Adrienne Scott
ADVANCED ABILITY CENTER CANDACRAIG
7 Thornhill Park, Sunderland,
Tyne & Wear, SRZ 7JZ
England, UK

VIA HAND DELIVERY
Kendrick L. Moxon, Esq.
BOWLES & MOXON
6255 Sunset Boulevard, Suite 200
Hollywood, California 90028

Gary M. Bright, Esq.
BRIGHT & POWELL
5464 Carpinteria Avenue, Suite E
Carpinteria, California 93013

Earle C. Cooley, Esq.
COOLEY, MANION, MOORE & JONES
21 Custom House Street
Boston, Massachusetts 02210

Ron Lawley
36 St. James Road
East Grinstead, West Sussex
Kent, England, UK

Lawrence E. Heller, Esq.
TURNER, GERSTENFELD, WILK, TIGERMAN & HELLER
8383 Wilshire Boulevard
Suite 510
Beverly Hills, CA 90211

VIA HAND DELIVERY
The Honorable James Kolts
1715 E. Altadena Drive
Altadena, CA 91001

William T. Drescher, Esq.
2049 Calabasas Road
Suite 338
Calabasas, CA 91302

J-12 orange

3019 **DEPT. 30**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: August 16, 1994

Honorable	DAVID A. HOROWITZ	, Judge , Deputy Sheriff	S. ROBLES LINDA NISHIMOTO #9147	, Deputy Clerk , Reporter
2	C. AGUIRRE	, C.S.L.		, E/R Monitor

(Parties and Counsel checked if present)

BC052395

CHURCH OF SCIENTOLOGY, ET

Counsel for Plaintiff: MICHAEL LEE HERTZBERG (x)
LAURIE J. BARTILSON (x)

VS

GERALD ARMSTRONG, ET AL

Counsel for Defendant: FORD GREENE (x)

NO LEGAL FILE

157680

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY

NATURE OF PROCEEDINGS:

MOTION BY CROSS-DEFENDANT, CHURCH OF SCIENTOLOGY INTERNATIONAL, FOR SUMMARY ADJUDICATION OF THE SECOND AND THIRD CAUSES OF ACTION OF THE CROSS-COMPLAINT;

Motion for Summary Adjudication of a Cause of Action (SACA) GRANTED. No triable issues of material facts. The 2nd and 3rd Causes of Action have no merit. CCP 437c(f)(1).

3rd Cause of Action - Breach of Contract.

Undisputed Facts: #1-9, essentially Undisputed, Cross-Defendant has accurately described the provisions of the Agreement; #10, not sufficiently disputed, Undisputed; #11, Undisputed; #12, no sufficiently disputed, Undisputed; #13, Undisputed; #14, Undisputed; #15, not sufficiently disputed, Undisputed; #16, Undisputed.

The Agreement terms are clear and unambiguous. Cross-Complainant understood the terms and signed it. The duties and obligations of the Agreement are clearly stated. "Mutuality" and "reciprocal" duties cannot be read into the unambiguous terms of the Agreement.

There are no provisions in the Agreement prohibiting the Cross-Defendant from referring to Cross-Complainant with the press or in legal pleadings or declarations. Cross-Complainant's beliefs as to what the Agreement should have said, it's validity, or what his attorney said or did to him are not relevant. The Agreement itself acknowledges that no agreements or understandings have been made among the parties aside from those set forth in the Agreement.

2nd Cause of Action - Abuse of Process.

Undisputed Facts: #17, not sufficiently disputed, Undisputed; #18, not sufficiently disputed, Undisputed; #19, Disputed; #20, Disputed, not material; #21, not sufficiently disputed, Undisputed; #22, Undisputed; #23, Disputed as to time discovered by Church counsel; #24,

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: August 16, 1994

Honorable	DAVID A. HOROWITZ	, Judge	S. ROBLES	, Deputy Clerk
		, Deputy Sheriff	LINDA NISHIMOTO #9147	, Reporter
2a	C. AGUIRRE	, C.S.L.		, E/R Monitor

BC052395

(Parties and Counsel checked if present)

CHURCH OF SCIENTOLOGY, ETC

Counsel for Plaintiff: MICHAEL LEE HERTZBERG (x)
LAURIE J. BARTILSON (x)

VS

GERALD ARMSTRONG, ET AL

Counsel for Defendant: FORD GREENE (x)

NO LEGAL FILE

NATURE OF PROCEEDINGS:

disputed as to motivation, otherwise Undisputed; #25, not sufficiently disputed, Undisputed; #26, Undisputed; #27, disputed as to word "further", otherwise Undisputed; #28, Disputed, but not material; #29, Undisputed; #30, Undisputed that Marin Court granted a motion to Transfer; #31, Undisputed, except for term "irreparably harmed; #32, Undisputed; #33, Undisputed; #34, not sufficiently disputed, Undisputed; #35, Undisputed.

A One Year Statute of Limitations applies to an Abuse of Process cause of action. Code of Civil Procedure Section 340. Conduct allegedly occurring prior to July 22, 1991 is precluded by the one year Statute. Conduct alleged in paragraphs 13-24, 26 and 27, 29 and 30, 33-38, 40, 43-48 and para 57 are alleged to have occurred before 7/22/91 and are time barred.

The alleged conduct constituting "abuse of process" contained in paragraphs 49, 51, 52 and 55 does not constitute such abuse of process. That is, there are no allegations concerning the abuse of court process which constitutes a cause of action.

Communications with "some relation" to judicial proceedings have been absolutely immune from tort liability by the privilege codified as section 47(b). Albertson v. Raboff.

The alleged conduct of bringing suit, contained in paragraphs 53 and 54, is not sufficient to state a cause of action for "abuse of process. The filing or maintaining of a lawsuit cannot support a claims for abuse of process. The filing of a suit to enforce the Settlement Agreement cannot support claims for abuse of process.

The conduct alleged in para 50, ie, the filing of a complaint and the use of a declaration speaking of Cross-Complainant, does not constitute abuse of process and is privileged.

Paragraph 52 alleged conduct relating to declarations filed in a case in which the Cross-Complainant is not a party. Such conduct does not constitute abuse of process and is privileged.

Page 2 of 3 Pages

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: August 16, 1994

Honorable	DAVID A. HOROWITZ	, Judge	S. ROBLES	, Deputy Clerk
		, Deputy Sheriff	LINDA NISHIMOTO #9147	, Reporter
2b	C. AGUIRRE	, C.S.L.		, E/R Monitor

BC052395

(Parties and Counsel checked if present)

CHURCH OF SCIENTOLOGY, ETC	Counsel for Plaintiff	MICHAEL LEE HERTZBERG (x) LAURIE J. BARTILSON (x)
VS		
GERALD ARMSTRONG, ET AL	Counsel for Defendant	FORD GREENE (x)

NO LEGAL FILE

NATURE OF PROCEEDINGS:

MOTION FOR SUMMARY ADJUDICATION OF SECOND AND THIRD CAUSES OF ACTION OF THE CROSS-COMPLAINT OF GERALD ARMSTRONG, GRANTED.

David Horowitz

DAVID A. HOROWITZ, JUDGE

This is the order called for by Code of Civil Procedure Section 437c(f) and Code of Civil Procedure Section 437c(g). No other written order is required.

A copy of this order is sent this date via U.S. Mail addressed as follows:

MICHAEL LEE HERTZBERG
ATTORNEY AT LAW
740 BROADWAY 5TH FL
NEW YORK NY 10003

LAURIE J. BARTILSON
BOWLES & MOXON
6255 SUNSET BLVD STE 2000
HOLLYWOOD CA 90028

FORD GREENE
HUB LAW OFFICES
711 SIR FRANCIS DRAKE BLVD
SAN ANSELMO CA 94960

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

D : 09/01/94

DEPT. 30

HONORABLE DAVID HOROWITZ JUDGE

S. ROBLES DEPUTY CLERK

HONORABLE JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

3

C. AGUIRRE CSL Deputy Sheriff

NONE Reporter

8:30 am

BC052395
Church of Scientology, etc.
VS
Gerald Armstrong, et al.

BC084642 Consolidated herein
170.6 JUDGE GEERNAERT

Plaintiff Counsel LAURIE BARTILSON (x)

Defendant Counsel NO APPEARANCE

No LEGAL File

15768

NATURE OF PROCEEDINGS:

JOINT EX-PARTE APPLICATION TO TRANSFER ACTION TO MARIN COUNTY PURSUANT TO STIPULATION.

STIPULATION RE: ISSUANCE OF COMMISSIONS TO TAKE DEPOSITIONS OUTSIDE THE STATE OF CALIFORNIA;

Order Re: Issuance of Commissions is signed and filed this date.

Joint Ex-Parte Application GRANTED. This matter is ordered transferred to the Marin County Superior Court upon payment of the necessary transfer fees.

Final Status Conference of 10/28/94 and Trial date of 11/7/94 are each advanced and vacated. Any jury fees on deposit ordered returned to the posting party.

Plaintiff shall give notice.

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY DEP.

MINUTES ENTERED
09/01/94
COUNTY CLERK

3023

Michael Lee Hertzberg
740 Broadway, 5th Floor,
New York, New York 10003
(212) 982-9870

Andrew H. Wilson SBN #063209
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson SBN #139220
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 953-3360

Attorneys for Plaintiff and Cross-Defendant CHURCH OF SCIENTOLOGY INTERNATIONAL

FILED
SEP - 1 1994
EDWARD [illegible], CLERK
BY S. ROBLES, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiffs,

vs.

GERALD ARMSTRONG; THE GERALD ARMSTRONG CORPORATION, a California corporation; Does 1 - 25 INCLUSIVE,

Defendants.

AND RELATED CROSS-COMPLAINT.

CASE NO. BC 052395

STIPULATION AND ORDER CHANGING VENUE

[C.C.P. §397(c)]

Hearing:
DATE:
TIME: 8:30 A.M.
DEPT: 30

TRIAL DATE: Nov. 7, 1994
DISC. CUTOFF: Oct. 7, 1994
MTN CUTOFF: Oct. 21, 1994

The parties agree that (1) the place of trial of this action be changed to the Superior Court of Marin County for the purpose of consolidation with the pending case of Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court Case No. 157680; (2) payment of costs and fees of the transfer be made by plaintiff Church of Scientology International; (3) all orders previously entered in this action shall remain in full force and effect before, during and after the transfer and the Superior Court of Marin County shall be the proper Court for enforcement of those orders; and (4) discovery in the case shall continue while the transfer is pending.

Dated: August 18, 1994

Laurie J. Bartilson
Attorney for Plaintiff
Church of Scientology
International

Dated: August 18, 1994

Ford Greene
Attorney for Defendants
Gerald Armstrong and the
Gerald Armstrong
Corporation

ORDER

The parties having agreed, and good cause appearing,

IT IS ORDERED THAT:

1. Church of Scientology International v. Gerald Armstrong, et al., Case No. BC 052395, be transferred to the Superior Court of Marin County on payment by plaintiff, Church of Scientology International, of all fees required by law.

2. The court clerk transmit a certified copy of this order and all the pleadings and papers filed in this action to the clerk of the Superior Court of Marin County forthwith.

3. All orders previously entered in this action shall remain in full force and effect before, during and after the transfer and the Superior Court of Marin County shall be the proper Court for enforcement of those orders; and

4. Discovery in the case shall continue while the transfer is pending.

Date: SEP - 1 1994

Superior Court Judge
David A. Horowitz

H:\ARMSTRON\TRANSFER.STP

SUPERIOR COURT OF CALIFORNIA, MARIN COUNTY

DATE: Nov. 16, 1994 COURT MET AT 9:30 a.m. DEPARTMENT NO. 1

PRESENT: HON. Gary W. Thomas, JUDGE M. Gallardo, DEPUTY CLERK

J. Knetzger, REPORTER -o-, BAILIFF

TITLE:	COUNSEL:
Church of Scientology vs	Linda Fong
Gerald Armstrong	Ford Greene

NATURE OF PROCEEDINGS: Ex Parte Application to Have Transferred File Deemed Complete and Request for Sanctions

ACTION NO. 157680

The court previously deemed the case consolidated under case number 157680. all pleadings shall be filed under said number.

The request of Plaintiff to deem file complete is hereby denied. Requests for sanctions requested by both sides are denied.

If the matter can't be resolved as to certain documents which should be in the file a motion will need to be made to this department.

Q

Andrew H. Wilson, SBN #063209
Linda Fong, SBN #124232
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson, SBN #139220
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 463-4395

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

FILED
HOWARD HANSON
MARIN COUNTY CLERK
NOV 16 1994
BY
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, A California not-for-profit religious corporation;

Plaintiff,

v.

GERALD ARMSTRONG, et al.,

Defendants.

LASC No. BC 052395

[Former Marin County No. 152229, new Marin County No. not yet assigned]

PLAINTIFF'S EX PARTE APPLICATION TO HAVE TRANSFERRED FILE DEEMED COMPLETE AND ACCEPTED BY THE CLERK OF THE COURT; REQUEST FOR SANCTIONS AGAINST DEFENDANT GERALD ARMSTRONG AND HIS COUNSEL, FORD GREENE

Date: November 15, 1994
Time: 9:30 a.m.
Dept: 1

NO TRIAL DATE

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 15, 1994 at 9:30 a.m. or as soon thereafter as may be heard, in Department 1 of the above-entitled Court located at Hall of Justice, 3501 Civic Center Drive, San Rafael, California, plaintiff Church of Scientology

International will move this Court for an Order (1) that the file in the above-entitled matter, recently transferred to this Court by the Los Angeles County Superior Court, be deemed complete and accepted by the clerk of this Court and (2) that defendant and his counsel pay to plaintiffs $400 in sanctions pursuant to C.C.P. §128.5. As grounds for the motion, plaintiff states that, at the request of the Marin County clerk, and at its own expense, plaintiff sent a paralegal to Marin County to assist in ordering the file, which was received from Los Angeles in a highly disorganized state. Defendant's counsel agreed, by stipulation, that he would have the file reviewed promptly once plaintiff's counsel's paralegal had organized the file, so that the Clerk could accept the file for processing, and to work with plaintiff's counsel to ensure that the file was promptly deemed complete. Despite many requests by plaintiff's counsel and the clerk, defendant's counsel failed to review the file until November 7, 1994. At that time, he sent plaintiff's counsel a letter claiming that the file was incomplete, and identifying documents such as reporter's transcripts which were never a part of the Los Angeles file, as the "missing documents." Plaintiff's counsel has agreed to supply the Marin Court with every document defendant claims should be part of the file, even those that are clearly improper. Nonetheless, defendant still refuses to stipulate that the file is complete, because the file of a second case, Los Angeles Superior Court No. BC 084642, has not yet arrived in Marin. The delay deliberately caused by defendant is inexcusable, and has forced plaintiff to the expense of bringing this motion.

This Application is based on this Application, the accompanying memorandum of points and authorities, the declaration of Laurie J. Bartilson, the records and files herein and such other and further evidence as properly may be adduced at the hearing of this Application.

Dated: November 15, 1994

Respectfully submitted,

Laurie J. Bartilson
BOWLES & MOXON

Michael Lee Hertzberg

WILSON, RYAN & CAMPILONGO

By: Linda Fong
Linda Fong

Attorneys for Plaintiff,
CHURCH OF SCIENTOLOGY
INTERNATIONAL

Andrew H. Wilson, SBN #063209
Linda Fong, SBN #
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson, SBN #139220
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 463-4395

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, A California not-for-profit religious corporation;

Plaintiff,

v.

GERALD ARMSTRONG; et al.,

Defendants.

LASC No. BC 052395

[Former Marin County No. 152229, new Marin County No. not yet assigned]

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION TO HAVE TRANSFERRED FILE DEEMED COMPLETE AND ACCEPTED BY THE CLERK OF THE COURT; REQUEST FOR SANCTIONS AGAINST DEFENDANT GERALD ARMSTRONG AND HIS COUNSEL, FORD GREENE

Date: November 15, 1994
Time: 9:30 a.m.
Dept: 1

NO TRIAL DATE

INTRODUCTION

Plaintiff, Church of Scientology International ("the Church") seeks with this application to end the delaying tactics of defendant Gerald Armstrong and his counsel in connection with the routine transfer of the file of this action from Los Angeles to Marin County. The file was ordered transferred to Marin on September 1, 1994; defendant and his counsel have succeeded in keeping the case from this Court (and pending dispositive motions resolved) for more than two months. The file is now here; thanks to the efforts of plaintiff's counsel's paralegal, it is organized and ready for the clerk to proceed. Defendant, however, has failed and refused to cooperate with plaintiff in providing the Court with the few documents which will make the file complete. Plaintiff therefore requests that this Court issue an order that, upon the filing by plaintiff of the six documents defendant claims are missing from the file, the file be deemed complete, and the clerk assign a number to the new case consistent with its status as a case already consolidated into Case No. 157680, Church of Scientology International v. Gerald Armstrong, et al., and that plaintiff be awarded its costs of making this motion.

ARMSTRONG AND HIS COUNSEL HAVE UNREASONABLY DELAYED ACCEPTANCE BY THIS COURT OF THE LOS ANGELES FILE

The file in this action was ordered transferred from Los Angeles to Marin County on September 1, 1994 [Declaration of Laurie J. Bartilson, Ex. A]. On September 28, 1994, the Clerk of the Los Angeles Superior Court notified the parties that the file had been transmitted to Marin [Id., Ex. B]. On or about October

12, 1994, plaintiff's counsel, Laurie Bartilson, learned that the file had been received by the Marin Superior Court Clerk's office, but that the file had arrived in such a disorganized state that the Clerk intended to send it back to Los Angeles. Recognizing the difficulties inherent in organizing a large file, Ms. Bartilson offered to provide the Marin County clerk's office with paralegal services to organize the file, at plaintiff's expense [Id., ¶ 4].

Betty Posey, the Marin County clerk in charge of the file, indicated that plaintiff's offered help would be accepted, provided that defendant's counsel would agree. She recommended that paralegals from both sides participate in the activity of organizing the file so as to ensure that no charges of partisanship erupted. [Id., ¶ 5.] For more than a week, Ms. Bartilson sought to obtain a stipulation from defendant's counsel that would permit the file to remain in Marin County, rather than suffer the delay that a transmittal back to Los Angeles would necessarily entail. Finally, on October 21, 1994, defendant's counsel agreed to a stipulation which provided that plaintiff's counsel would send a paralegal to the Marin County clerk's office to organize the file, and that, when such organization was complete, defendant would promptly send someone from his office to review the file, so that the clerk would be assured that both sides had participated in the organization process. [Id., ¶ 6 and Ex. C thereto.]

In coordination with the Ms. Posey, Ms. Bartilson sent a paralegal to Marin County on October 25, 1994. He worked with Marin County clerk personnel to organize the files on October 25, and completed the task on October 26, 1994. [Id., ¶ 7.] Plaintiff's counsel promptly notified Armstrong's counsel, Mr. Greene, who stated that he would send someone to review the file on October 27 or 28. [Id., ¶ 8.]

On October 31, 1994, Ms. Bartilson checked with Ms. Posey, and discovered that no one had come from Mr. Greene's office to check the file, although Ms. Posey had also called Mr. Greene and requested that he send someone. Ms. Bartilson spoke to Mr. Greene again on October 31, and Mr. Greene stated that he intended to send defendant Armstrong, who is Mr. Greene's employee, to review the file on Tuesday, November 1. [Id., ¶ 9.]

On November 2, 1994, Ms. Bartilson again called for Mr. Greene, and spoke to Armstrong, who answers Mr. Greene's telephone. Armstrong stated that he still had not reviewed the file, and that he was not aware that Mr. Greene had agreed to send him to review the file on November 1. [Id., ¶ 10.] Ms. Bartilson sent a letter to Mr. Greene, requesting that he comply with the stipulation. [Id., Ex. D.] Mr. Greene did not respond until late on November 3, when he sent a letter indicating that Armstrong was "busy" and calling Ms. Bartilson's letter "rude." [Id., Ex. E.] Armstrong did not review the file until November 7, 1994. [Id., ¶ 12.]

On November 7, 1994, Mr. Greene sent Ms. Bartilson a letter which listed thirteen "flaws" he claimed to have found in the file. These included such things as books and videotapes which plaintiff had lodged in Los Angeles and had returned to it by the clerk, and evidentiary documents which had been served on Mr. Greene but never filed. Ms. Bartilson reviewed Mr. Greene's list, and proposed a stipulation to cure the defects. [Id., ¶¶ 13-14 and Exhibits F and G thereto.] When she heard nothing from Mr. Greene, Ms. Bartilson sent him a second letter reiterating the need for a stipulation, and giving notice that she intended to bring this application. [Bartilson Dec., Ex. H.] The letter was faxed to Mr. Greene at 12 noon on November 14, 1994. [Bartilson Dec., Ex. I.]

Late on November 14, Mr. Greene responded. He insisted that nearly every document be provided to the Marin Court by plaintiff in exchange for his stipulation. However, he also insisted that he would not stipulate to the file's completeness because the file for a companion case, Church of Scientology International v. Armstrong, et al., LASC No. BC 084642, had not been transferred to Marin at the same time. [Bartilson Dec., Ex. J.]

Case No. 084642 was ordered consolidated into the instant case. It maintains its own case number, and Ms. Bartilson was informed by the Marin clerk, Ms. Posey, that when it arrives in Marin, it will not be processed as part of the file of the instant action, but will be given its own case number. [Bartilson Dec., ¶ 17.] Hence there is no need to deem the file of this case "incomplete" while the file of another case is enroute.

Further, no prejudice could occur for want of the 084642 file. There is no operative pleading in the case. A Second Amended Complaint was filed in the instant case, at Judge Horowitz's order, which combines the allegations from both of the cases, and forms the only complaint under which plaintiff may proceed.[1]

The file in this action has thus been placed into a form acceptable to the clerk, by plaintiff and at plaintiff's expense. Defendant and his counsel have delayed its processing for more than a month, even though this Court ordered the Los Angeles action consolidated with Marin County Case No. 157680 in September, 1994. [Bartilson Dec., Ex. M.] Their willful failure to comply with their stipulation, which has had the effect of grinding the case to a halt, is a clear example of a "bad-faith action or tactic" that is "solely intended to cause unnecessary delay." C.C.P. §128.5. Pursuant to that section, plaintiff is entitled to recover its costs of bringing this ex parte application, in the amount of $400.

CONCLUSION

Defendant, by his willful delay, has waived any right to object to the state of the file, if any he had, in the above-entitled action. Upon the lodging by plaintiff of the documents listed in Ms. Bartilson's declaration, the clerk should be ordered to deem the file complete and assign the case a Marin County number. Further, Armstrong and his lawyer should be

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///

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ordered to pay plaintiff its expenses of $400 in bringing this application.

---

[1] Armstrong is in default on this complaint, which may explain his desire to delay the processing of the file. [Bartilson Dec., Ex. L.]

Dated: November 15, 1994

Respectfully submitted,

Laurie J. Bartilson
BOWLES & MOXON

Michael Lee Hertzberg

WILSON, RYAN & CAMPILONGO

By: Linda Fong
Linda Fong

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

Andrew H. Wilson, SBN #063209
Linda Fong, SBN #
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson, SBN #139220
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 463-4395

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, A California not-for-profit religious corporation;

Plaintiff,

v.

GERALD ARMSTRONG; et al.,

Defendants.

LASC No. BC 052395

[Former Marin County No. 152229, new Marin County No. not yet assigned]

DECLARATION OF LAURIE J. BARTILSON IN SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION TO HAVE TRANSFERRED FILE DEEMED COMPLETE AND ACCEPTED BY THE CLERK OF THE COURT AND FOR SANCTIONS

Date: November 15, 1994
Time: 9:30 a.m.
Dept: 1

NO TRIAL DATE

DECLARATION OF LAURIE J. BARTILSON

I, LAURIE J. BARTILSON, hereby depose and state:

1. I am an attorney licensed to practice law in the State of California. I am a partner in the law firm of Bowles & Moxon and am counsel of record for plaintiff Church of Scientology

International in the above-referenced action. I have personal knowledge of the matters set forth herein and, if called upon to do so, could and would competently testify thereto.

2. The file in this action was ordered transferred from Los Angeles to Marin County on September 1, 1994. A true and correct copy of the order of transfer is attached hereto as Exhibit A.

3. On September 28, 1994, the Clerk of the Los Angeles Superior Court notified the parties that the file had been transmitted to Marin. A true and correct copy of this notice is attached hereto as Exhibit B.

4. On or about October 12, 1994, I spoke to Marin County clerk Betty Posey. Ms. Posey explained that the file in this action had been received by the Marin Superior Court Clerk's office, but that the file had arrived in such a disorganized state that she intended to send it back to Los Angeles. Wanting to avoid the delay inherent in the file going back to Los Angeles, and understanding the difficulty faced by both county clerks' offices in dealing with such a large file, I offered to provide the Marin County clerk's office with paralegal services to organize the file, at the expense of the plaintiff.

5. Ms. Posey indicated that the offered help would be accepted, provided that defendant's counsel would agree. She recommended that paralegals from both sides participate in the activity of organizing the file, so as to ensure that no charges of partisanship erupted.

6. For more than a week, I tried to obtain a stipulation from defendant's counsel, Ford Greene, that would permit the file

to remain in Marin County. Finally, on October 21, 1994, Mr. Greene agreed to a stipulation which provided that plaintiff's counsel would send a paralegal to the Marin County clerk's office to organize the file, and that, when such organization was complete, defendant would promptly send someone from his office to review the file, so that the clerk would be assured that both sides had participated in the organization process. A true and correct copy of that stipulation is attached hereto as Exhibit C.

7. In coordination with the Ms. Posey, I sent a paralegal from my office, Matthew Ward, to Marin County on October 25, 1994. He worked with Marin County clerk personnel to organize the files on October 25, and completed the task on October 26, 1994.

8. By telephone, I promptly notified Mr. Greene that Mr. Ward had completed his work. Mr. Greene stated that he would send someone to review the file on October 27 or 28.

9. On October 31, 1994, I called Ms. Posey, and discovered that no one had come from Mr. Greene's office to check the file, although Ms. Posey had also called Mr. Greene and requested that he send someone. Accordingly, I called Mr. Greene again on October 31, and Mr. Greene stated that he intended to send defendant Armstrong, who is Mr. Greene's employee, to review the file on Tuesday, November 1.

10. On November 2, 1994, I again called for Mr. Greene, and spoke to Armstrong, who answers Mr. Greene's telephone. Armstrong stated that he still had not reviewed the file, and that he was not aware that Mr. Greene had agreed to send him to review the file on November 1. I sent a letter to Mr. Greene,

demanding that he comply with the stipulation. A true and correct copy of that letter is attached hereto as Exhibit D.

11. Mr. Greene did not respond to my letter until late on November 3, when he sent a letter indicating that Armstrong was "busy" and calling my letter "rude." A true and correct copy of this letter is attached hereto as Exhibit E.

12. Armstrong, despite all promises, did not complete his review of the file until November 7, 1994.

13. On November 7, 1994, Mr. Greene sent me a letter which listed thirteen "flaws" he claimed to have found in the file. These included such things as books and videotapes which plaintiff had lodged in Los Angeles and had returned to it by the clerk, and evidentiary documents which had been served on Mr. Greene but never filed. A true and correct copy of this letter is attached hereto as Exhibit F.

14. I reviewed Mr. Greene's list, and proposed a stipulation to cure the defects. A true and correct copy of my proposed stipulation is attached hereto as Exhibit G.

15. Mr. Greene did not respond to my letter of November 9, 1994. On November 14, 1994, I sent him a second letter, asking that he agree to the stipulation I had proposed, and giving notice that I intended to proceed with this ex parte application. A true and correct copy of my letter is attached hereto as Exhibit H. The letter was faxed to Mr. Greene at 12 noon. A true and correct copy of the telefax transmittal sheet is attached hereto as Exhibit I.

16. Mr. Greene responded to my letter on November 14. He insisted that nearly every document be provided to the Marin

Court by plaintiff in exchange for his stipulation. However, he also insisted that he would not stipulate to the file's completeness because the file for a companion case, Church of Scientology International v. Armstrong, et al., LASC No. BC 084642, had not been transferred to Marin at the same time. A true and correct copy of his letter to me is attached hereto as Exhibit J. I responded to his letter by offering to provide all of the documents he still considered necessary to the Marin Clerk at plaintiff's expense, in order to end the delay. A true and correct copy of my letter to Greene is attached hereto as Exhibit K.

17. I have been informed by Ms. Posey that when Case Number BC 084642 arrives in Marin, it will not be processed as part of the file of the instant action, but will be given its own case number. Hence there is no need to deem the file of this case "incomplete" while the file of another case is enroute.

18. There is no operative pleading in Case No. BC 084642. A Second Amended Complaint was filed in the instant case, at Judge Horowitz's order, which combines the allegations from both of the cases, and forms the only complaint under which plaintiff may proceed.

19. Armstrong is in default in the instant case because he has never filed an answer to the Second Amended Complaint. A true and correct copy of the clerk's notification of default is attached hereto as Exhibit L.

20. In September, 1994, this court ordered the instant case consolidated with Marin County Case No. 157680. A true and correct copy of the order of consolidation is attached hereto as

Exhibit M.

21. I have agreed that I will provide the clerk with true and correct copies of the following documents which defendant Armstrong has asked be made a part of the file in this action:

- Exhibits filed at the hearing on Order to Show Cause re: Contempt of Gerald Armstrong;
- Reporter's Transcript of hearing of May 26, 1992;
- Opposition of Amicus Curiae and Proposed Intervenor Joseph A. Yanny to Plaintiff's Ex Parte Application to Extend T.R.O. Against Gerald Armstrong;
- Plaintiff's Status Conference Questionnaire, dated November 9, 1992;
- Armstrong's Memorandum in Sur-Reply on Order to Show Cause;
- Notice of Related Case.

22. My normal billing rate is $200 per hour. I have expended one hour of my time preparing this declaration and application, and I anticipate that I or my co-counsel, Linda Fong, will spend at least an additional hour at the hearing on this matter.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 14th day of November, 1994 at Los Angeles, California.

LAURIE J. BARTILSON

Michael Lee Hertzberg
740 Broadway, 5th Floor,
New York, New York 10003
(212) 982-9870

Andrew H. Wilson SBN #063209
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson SBN #139220
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 953-3360

Attorneys for Plaintiff and
Cross-Defendant CHURCH OF SCIENTOLOGY
INTERNATIONAL

80
ORIGINAL FILED
SEP - 1 1994
LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiffs,

vs.

GERALD ARMSTRONG; THE GERALD ARMSTRONG CORPORATION, a California corporation; Does 1 - 25 INCLUSIVE,

Defendants.

AND RELATED CROSS-COMPLAINT.

CASE NO. BC 052395

STIPULATION AND ORDER CHANGING VENUE

[C.C.P. §397(c)]

Hearing:
DATE:
TIME: 8:30 A.M.
DEPT: 30

TRIAL DATE: Nov. 7, 1994
DISC. CUTOFF: Oct. 7, 1994
MTN CUTOFF: Oct. 21, 1994

EXHIBIT A

The parties agree that (1) the place of trial of this action be changed to the Superior Court of Marin County for the purpose of consolidation with the pending case of Church of Scientology International v. Gerald Armstrong, et al., Marin County Superior Court Case No. 157680; (2) payment of costs and fees of the transfer be made by plaintiff Church of Scientology International; (3) all orders previously entered in this action shall remain in full force and effect before, during and after the transfer and the Superior Court of Marin County shall be the proper Court for enforcement of those orders; and (4) discovery in the case shall continue while the transfer is pending.

Dated: August 18, 1994

Laurie J. Bartilson
Attorney for Plaintiff
Church of Scientology
International

Dated: August 18, 1994

Ford Greene
Attorney for Defendants
Gerald Armstrong and the
Gerald Armstrong
Corporation

ORDER

The parties having agreed, and good cause appearing,

IT IS ORDERED THAT:

1. Church of Scientology International v. Gerald Armstrong, et al., Case No. BC 052395, be transferred to the Superior Court of Marin County on payment by plaintiff, Church of Scientology International, of all fees required by law.

2. The court clerk transmit a certified copy of this order and all the pleadings and papers filed in this action to the clerk of the Superior Court of Marin County forthwith.

3. All orders previously entered in this action shall remain in full force and effect before, during and after the transfer and the Superior Court of Marin County shall be the proper Court for enforcement of those orders; and

4. Discovery in the case shall continue while the transfer is pending.

Date: SEP - 1 1994

David A. Horowitz

Superior Court Judge

N:\ARMSTRON\TRANSFER.STP

Los Angeles Superior Court
Transfer Unit, Room 102
111 N. Hill Street
Los Angeles, CA 90012
(213) 893-0190

FILED
LOS ANGELES SUPERIOR COURT
SEP 28 1994
3046
[illegible]
BY D. SWAIN DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL
Plaintiff(s)

vs.

GERALD ARMSTRONG
Defendant(s)

Case Number
BC052395

NOTICE OF OUTGOING TRANSFER

TO THE ABOVE NAMED PARTIES AND THEIR ATTORNEYS OF RECORD:

BOWLES AND MOXON
6255 SUNSET BLVD
STE 2000
HOLLYWOOD, CA 90028

HUB LAW OFFICES
711 SIR FRANCIS DRAKE BLVD
SAN ANSELMO, CA 94960

Pursuant to the provisions of Section 399 Code of Civil Procedure, you are hereby notified that the papers and pleadings in this case have this date been transmitted to: SUPERIOR COURT MARIN COUNTY

Dated: September 28, 1994

Edward M. Kritzman, Executive Officer
Clerk of the Superior Court
County of Los Angeles

By D Swain, Deputy
D. SWAIN

CERTIFICATE OF MAILING

I am not a party to the within action and over the age of 18 years. I am familiar with the Los Angeles Superior Court practice for collection and processing of correspondence and know that such correspondence is deposited with the United States Postal Service the same day it is delivered to the mail room in the Los Angeles Superior Court. I declare under penalty of perjury under the laws of the state of California that I delivered a true copy of the above notice to the attorneys of record and placed the copy in a sealed envelope with postage prepaid to the mail room of this court.

Dated: September 28, 1994

Edward M. Kritzman, Executive Officer
Clerk of the Superior Court
County of Los Angeles

By D Swain, Deputy
D. SWAIN

RD

EXHIBIT B

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 463-4395

Attorneys for Plaintiff and
Cross-Defendant CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiff, vs. GERALD ARMSTRONG; THE GERALD ARMSTRONG CORPORATION, a California corporation; Does 1 - 25 INCLUSIVE Defendants.	MARIN CASE NO. 157 680 LOS ANGELES CASE NO. BC 052395 [CONSOLIDATED] STIPULATION
AND RELATED CROSS-COMPLAINT	

It is stipulated by and between plaintiff Church of Scientology International and defendants Gerald Armstrong and the Gerald Armstrong Corporation, by and through their respective attorneys of record, that plaintiff's attorneys, Bowles & Moxon, shall send a paralegal to the Marin Superior Court clerk's office to assist the clerk in placing in order the file in Case Number BC 052 395, recently transferred from Los Angeles to Marin, and

EXHIBIT C

prepare the file for use by the Court. It is further stipulated that once the Bowles and Moxon paralegal has completed the task of placing the file in order, plaintiff's counsel, Laurie Bartilson, will notify defendants' counsel, Ford Greene, and a designee from Mr. Greene's office will promptly review the file. Mr. Greene will notify Ms. Bartilson as soon as this review is complete. The parties further agree to work together to resolve any differences that may arise so that the file may be readily usable by the Court.

Dated: October 21, 1994

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

Dated: October 21, 1994

By: ______________________
Ford Greene

Attorney for Defendants GERALD
ARMSTRONG and GERALD ARMSTRONG
CORPORATION

BOWLES & MOXON
ATTORNEYS AT LAW
6255 SUNSET BOULEVARD
SUITE 2000
HOLLYWOOD, CALIFORNIA 90028

(213) 463-4395
TELECOPIER (213) 953-3351

TIMOTHY BOWLES *
KENDRICK L. MOXON #
LAURIE J. BARTILSON †
HELENA K. KOBRIN ‡

* ALSO ADMITTED IN OREGON
# ALSO ADMITTED IN THE DISTRICT OF COLUMBIA
† ALSO ADMITTED IN MASSACHUSETTS
‡ ALSO ADMITTED IN FLORIDA

AVA MARIE SANDLIN

OF COUNSEL
JEANNE M. GAVIGAN
MARCELLO M. DI MAURO
LESLIE T.W. SOASH

November 2, 1994

BY TELEFAX AND U.S. MAIL

Ford Greene, Esq.
Hub Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949

Re: Church of Scientology International v. Gerald Armstrong

Dear Ford:

I spoke today with the Marin Court clerk, Betty Posey, and with your paralegal, Gerald Armstrong, concerning your review of the file in the above transferred case. As you will recall, we stipulated on October 21 that I would send a paralegal to Marin to place the file in order, and that, upon notification, "a designee from Mr. Greene's office will promptly review the file. Mr. Greene will notify Ms. Bartilson as soon as this review is complete."

On Wednesday, October 26, I informed you that Matt Ward had completed his work on the file. You informed me that you would send someone to review the file on either Thursday, October 27 or Friday, October 28. You did not do so. On Monday, October 31, I spoke to you again. You informed me that you intended to send Mr. Armstrong to review the file on Tuesday, November 1. Today, when I spoke to Mr. Armstrong, he still had not reviewed the file, and insisted that he was not aware that you had agreed to send him to review the file on November 1. He told me that he hoped to go to court to review the file "within the next 24 hours."

Please be advised that in the event that you or someone from your office does not complete your promised file review tomorrow, November 3, that plaintiff will appear ex parte before Judge Thomas on Friday, November 4, at 9:30 a.m., and request an order that the file be deemed complete and accepted by the Marin court

EXHIBIT D

without your review. At that time, I will also request sanctions for the expenses involved in making the motion, which, given our stipulation, should have been unnecessary.

Please advise me promptly whether you intend to review the file on November 3 or not.

Sincerely,

BOWLES & MOXON

Laurie J. Bartilson

LJB:mfh
cc: Andrew H. Wilson, Esq.
Michael Lee Hertzberg, Esq.
Paul Morantz, Esq.

HUB LAW OFFICES
711 SIR FRANCIS DRAKE BOULEVARD
SAN ANSELMO, CALIFORNIA 94960-1949
(415) 258-0360

FORD GREENE
LAWYER

LICENSE NO. 107601
FACSIMILE (415) 456-5318

November 3, 1994

By Telecopier
213-953-3351

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Los Angeles, CA 90028

RE: *Scientology v. Armstrong*
Marin County Superior Court
Case No. 157 680

Dear Laurie:

I resent the tone of your letter dated November 2, 1994 regarding the file that was shipped from Los Angeles. First, my client and I did not have to stipulate to Matt Ward's assistance in putting the file in order, in the absence of which it would have been returned to Los Angeles. We entered such stipulation in order to accommodate your desire that there not be unnecessary delay. In light of this, the rude tone of your letter and lack of reciprocity is offensive, as are your threats.

Mr. Armstrong has been busy completing other matters and has not been able, until today, to conduct his review. Over the last several months, I have endeavored to work with you in a spirit of cooperation. The tone of your letter undermines that.

Sincerely,

FORD GREENE

:acg

EXHIBIT E

3052

FORD GREENE
LAWYER

HUB LAW OFFICES
711 SIR FRANCIS DRAKE BOULEVARD
SAN ANSELMO, CALIFORNIA 94960-1949
(415) 258-0360

LICENSE NO. 107601
FACSIMILE (415) 456-5318

November 7, 1994

By Telecopier
213.953.3351

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

RE: *Church of Scientology International v. Armstrong*
Los Angeles Superior Court
Case No. BC 052 395

Dear Laurie:

Our review of the file shows that the following documents in the above referenced case have not been transferred from Los Angeles to the County of Marin:

1. All of Armstrong III;
2. All videotapes and books lodged by Scientology with clerk in LA;
3. All exhibits from 7/28/94 Judge Wayne hearing on OSC re contempt;
4. Reporter's Transcripts of Proceedings (all hearings except 3/3/92 Judge Dufficy hearing re TRO);
5. Opposition of Amicus Curiae and Proposed Intervenor Joseph A. Yanny to Plaintiff's Ex Parte Application to Extend T.R.O. Against Gerald Armstrong filed ±5/4/92;
6. (Plaintiff's) Status Conference Questionnaire (Status Conference 11/9/92), filed ± 11/2/92;
7. Plaintiff's Exhibits 1-10 for Hearing on Order to Show Cause Why Gerald Armstrong Should Not Be Held in Contempt, filed ± 3/2/93;
8. (Plaintiff's) Request for Judicial Notice of Documents Previously Filed in Church of Scientology International vs. Armstrong; and Declaration of Laurie J. Bartilson, filed ± 3/2/93;

EXHIBIT F.

9. (Plaintiff's) Request for Judicial Notice of Documents; Declaration of Laurie J. Bartilson, filed ± 3/2/93;

10. Defendant Armstrong's Memorandum in Sur-Reply on Order to Show Cause Re Contempt, filed 3/3/94

11. (Plaintiff's) Notice of Related Case (BC 084642 and BC 052395), filed ± 8/6/93

12. Bartilson Letter to Judge Diane Wayne re OSC re Contempt dated 7/19/94;

13. The documents already noted as missing by Matt Ward.

Finally there remains the matter of the transfer of the $70,000 bond which the LA clerk is supposed to send to the Marin clerk.

Until these matters are included in the file, we will not deem that the file is complete. Please advise me how you want to approach making the file complete.

Sincerely,

FORD GREENE

:acg
cc: Betty Posey, Deputy Clerk MCSC

BOWLES & MOXON
ATTORNEYS AT LAW
6255 SUNSET BOULEVARD
SUITE 2000
HOLLYWOOD, CALIFORNIA 90028

(213) 463-4395
TELECOPIER (213) 953-3351

TIMOTHY BOWLES *
KENDRICK L. MOXON #
LAURIE J. BARTILSON †
HELENA K. KOBRIN ‡

* ALSO ADMITTED IN OREGON
# ALSO ADMITTED IN THE DISTRICT OF COLUMBIA
† ALSO ADMITTED IN MASSACHUSETTS
‡ ALSO ADMITTED IN FLORIDA

AVA MARIE SANDLIN

OF COUNSEL
JEANNE M. GAVIGAN
MARCELLO M. DI MAURO
LESLIE T.W. SOASH

3054

November 8, 1994

BY TELEFAX AND U.S. MAIL

Ford Greene, Esq.
Hub Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949

Re: Church of Scientology International v. Gerald Armstrong

Dear Ford:

Thank you for your letter of November 7 concerning the Marin files. I think that we should be able to cooperatively resolve each of the issues that you raise. Here are my suggestions:

1. If what you refer to as "Armstrong III" is Los Angeles Case Number BC 084642, I have been informed by the clerk that this case is being transferred separately, and will be given a separate case number when it arrives in Marin County. I will undertake to make certain that the Los Angeles clerk sends the file, and will post the requisite fees.

2. Videotapes and books: those items lodged with the court were lodged at the court's request, and returned to me after each hearing. It is not the policy in Los Angeles Superior Court to file these oversized particles, but to lodge and return them. I would be happy to re-lodge them in Marin, but I am certain that the clerk there would prefer that I do so only in the event that such a document is referenced in a matter that is actually before the court. If you would like me to lodge any particular videotape or book, please let me know.

EXHIBIT G

3. OSC exhibits: None of these appear on the Los Angeles Court docket, and none appear to have been retained by that court. If they are not a part of the Los Angeles court files, they cannot be transferred to Marin.

4. Reporter's Transcripts: These are not routinely part of the court's file, but must be privately ordered from the court reporter. They were not part of the Los Angeles file.

5. Yanny Opposition: This was the only document which Matt noted as missing from the file. I am willing to waive its appearance in the file; I suggest that if you feel differently, you provide a copy to the clerk, since it is a document filed on your client's behalf.

6. Plaintiff's Status Conference Questionnaire: This did not appear on the Los Angeles docket. I will provide a copy to the Marin County clerk.

7. - 9. Plaintiff's Exhibits 1-10 for Hearing on OSC, and Requests for Judicial Notice: These documents were served on you prior to the hearing that was scheduled before Judge Wayne in March of 1993. The hearing did not take place, and the documents were never filed. They are not a part of the court file in Los Angeles, and should not be part of the court file in Marin.

10. Armstrong's Sur-Reply: Matt says that this document is in the Marin file. You have it listed by the wrong date. If you wish to file another copy of it, we have no objection.

11. Plaintiff's Notice of Related Case: This would be part of the file of the later-filed case, Number BC 084642, which is not yet transferred.

12. Letter to Judge Wayne: The judges of the Los Angeles Superior Court normally do not docket correspondence. It is not in the Los Angeles file, and need not appear in the Marin file.

13. Documents noted missing by Matt: Matt noticed only 1 and 5, above, other than orders continuing the hearing on the Order to Show Cause, which I will supply to the court.

I propose that we provide the clerk with copies of the documents noted above as necessary immediately, and stipulate that the file for this case is thereafter complete. The file of Case Number BC 084642 will have to be handled as a separate case file. It should be much simpler for all concerned, since it is a small case file. If you agree, please sign below and return your signature to me by fax.

Sincerely,

BOWLES & MOXON

Laurie

Laurie J. Bartilson

SO STIPULATED:

____
Ford Greene, Esq.
Attorney for Defendants
GERALD ARMSTRONG and
GERALD ARMSTRONG CORPORATION

LJB:aeu
cc: Andrew H. Wilson, Esq.
Michael Lee Hertzberg, Esq.
Paul Morantz, Esq.

BOWLES & MOXON
ATTORNEYS AT LAW
6255 SUNSET BOULEVARD
SUITE 2000
HOLLYWOOD, CALIFORNIA 90028

(213) 463-4395
TELECOPIER (213) 953-3351

TIMOTHY BOWLES *
KENDRICK L. MOXON #
LAURIE J. BARTILSON †
HELENA K. KOBRIN ‡

* ALSO ADMITTED IN OREGON
# ALSO ADMITTED IN THE DISTRICT OF COLUMBIA
† ALSO ADMITTED IN MASSACHUSETTS
‡ ALSO ADMITTED IN FLORIDA

November 14, 1994

BY TELEFAX AND U.S. MAIL

Ford Greene, Esq.
Hub Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949

Re: Church of Scientology International v. Gerald Armstrong

Dear Ford:

On November 8, I wrote to you concerning the file that had been transferred in the above-entitled case from Los Angeles to Marin County. In my letter, I proposed solutions to each of the items that you claimed were missing from the file. As you know, most of the items were items that are not normally kept as part of the court's file in either county. I suggested that we enter into a stipulation as to the two or three items that were, in fact, missing from the file, and that either you or I supply those items to the court so that the file could be deemed complete. A copy of my letter and proposed stipulation is attached. I have heard nothing from you in response, and you have not returned any of my calls.

Please be advised that if I am not able to obtain your agreement today on a stipulation which will complete the file in Marin County, I will move ex parte tomorrow, in Department 1 of the Marin County Superior Court at 9:30 a.m. for an order deeming

EXHIBIT H

the file to be complete, and assigning it a case number consistent with Judge Thomas's earlier order of consolidation.

Sincerely,

BOWLES & MOXON

Laurie J. Bartilson

LJB:aeu
cc: Andrew H. Wilson, Esq. **BY TELEFAX**
Michael Lee Hertzberg, Esq. **BY TELEFAX**
Paul Morantz, Esq. **BY TELEFAX**
Betty Posey, Marin Superior Court Clerk **BY TELEFAX**

```
** TX CONFIRMATION REPORT **          AS OF   NOV 14 '94 12:02   PAGE.01

       DATE  TIME        TO/FROM          MODE   MIN/SEC   PGS   CMD#  STATUS
   20  11/14 12:00 4154565318             EC--S   01'07" 003     134    OK
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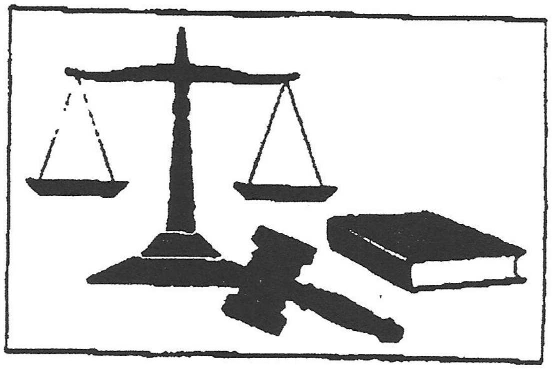

FAX COVERSHEET

DATE: 14 Nov 94 TIME: ____________

TO: Ford Greene FAX NO: ____________

FROM: Laurie Bartilson

COMMENTS: ____________

There are 3 pages to this transmission, including this page.

CONFIDENTIALITY NOTICE

The documents accompanying this transmission contain confidential information belonging to the sender which is privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient named above, you are hereby notified that any disclosure, copying, distribution or the taking of any action based on the contents of the accompanying documents is prohibited. If you have received this transmission in error, please notify the sender immediately by telephone to arrange for the return of the documents.

THIS FACSIMILE TRANSMISSION. IT WAS :
WELL RECEIVED: ____ .
PAGES WERE GARBLED, PLEASE RESEND PAGES: ______.
Thank You.

EXHIBIT U

HUB LAW OFFICES

711 SIR FRANCIS DRAKE BOULEVARD
SAN ANSELMO, CALIFORNIA 94960-1949
(415) 258-0360

FORD GREENE
LAWYER

LICENSE No. 107601
FACSIMILE (415) 458-5318

November 14, 1994

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

By Telecopier
213.953.3351

RE: *Church of Scientology International v. Armstrong*
Los Angeles Superior Court
Case No. BC 052 395

Dear Laurie:

I will not stipulate to making an order making into two separate cases what is a single case, particularly when, as you know, Judge Horowitz ordered the two cases consolidated, *sua sponte*.

Thus, my response to your 13 points in your November 8th letter is as follows:

1. This is unacceptable. Judge Horowitz ordered these two cases consolidated on October 6, 1993.
2. This is fine. There is no need for re-lodging.
3. This material is a serious part of the record and must be found. I will stipulate to nothing unless the exhibits that you employed in an effort to have my client jailed for contempt are found, or, in the alternative, you stipulate that said exhibits are replaced.
4. The transcript of oral argument before Judge Sohigian on May 26, 1992 was part of the record below. I will stipulate to nothing unless this is made part of the record, as it was.
5. You must expressly stipulate to the inclusion of this in the file and provide it to the court because you stipulated that you would pay all costs of the transfer.
6. Agreed.
7. Agreed.

EXHIBIT J

8. Agreed.

9. Agreed.

10. You must expressly stipulate to the inclusion of this in the file.

11. This is part of the consolidated file and must be included.

12. Agreed.

13. Agreed.

You fail to address the matter of the bond.

I called you at Mr. Wilson's request to sort these things out, however, you were not available. Please be advised that I will seek sanctions for your forcing me to make an unecessary appearance tomorrow and also because your notice was not timely served.

Sincerely,

FORD GREENE

:acg
cc: Andrew H. Wilson (by fax)
Michael L. Hertzberg
Michael Walton

BOWLES & MOXON
ATTORNEYS AT LAW
6255 SUNSET BOULEVARD
SUITE 2000
HOLLYWOOD, CALIFORNIA 90028

(213) 463-4395
TELECOPIER (213) 953-3351

TIMOTHY BOWLES *
KENDRICK L. MOXON #
LAURIE J. BARTILSON †
HELENA K. KOBRIN ‡

* ALSO ADMITTED IN OREGON
# ALSO ADMITTED IN THE DISTRICT OF COLUMBIA
† ALSO ADMITTED IN MASSACHUSETTS
‡ ALSO ADMITTED IN FLORIDA

3062

November 14, 1994

BY TELEFAX AND U.S. MAIL

Ford Greene, Esq.
Hub Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949

Re: Church of Scientology International v. Gerald Armstrong

Dear Ford:

Thank you for your letter of this date. I believe that, now that you have chosen to respond, we can resolve most of the issues that you have raised.

Although I disagree that most of the items noted in your letters of November 8 and November 14 are or should be a part of the record in this case, I will lodge with the Marin clerk true copies of documents described in your numbers 3, 4, 5, 6, 10 and 11, and inform her that we believe that they are missing from the file, and should be included therein.

As for the records from the other Los Angeles action, Number BC 084642, the Marin clerk has informed me that they will not hold this file unprocessed while waiting for those documents, even though the cases are consolidated. In their view the cases are two separate case files, and we are required to pay two sets of fees for their processing. Since the complaints in the two cases are now joined in the Second Amended Complaint in the action that has been sent to Marin, Number BC 052395, and this is the only operative pleading in either case, I cannot imagine any prejudice resulting from completing the processing of the case file now in Marin while the other is enroute. You can file any documents from that file which you believe are necessary for consideration of your position as exhibits with any motion, as can I.

As for the bond, I was informed last month by the Los Angeles Superior Court accounting department that they had

EXHIBIT K

inexplicably not received the transfer order. I furnished them a copy of the order, and the bond is now being transferred to Marin. Since the money is the Church's, and was posted to support an injunction that has already been upheld on appeal, you can rest assured that I will keep accurate track of where it is and what interest it is accruing, against the day when it is returned.

Since you have stated that you will not stipulate to the completeness of the file even if I supply every document that you have arbitrarily decreed "should be" a part of the file, because the transfer of Case Number BC 089642 is still pending, I will appear ex parte tomorrow, as noticed, to seek an order deeming the file complete. Timely notice of the ex parte was faxed to your office this morning. I will also seek sanctions against you and Mr. Armstrong for your deliberate delay.

Sincerely,

BOWLES & MOXON

Laurie J. Bartilson

LJB:aeu
cc: Andrew H. Wilson, Esq. **BY TELEFAX**
Michael Lee Hertzberg, Esq. **BY TELEFAX**
Paul Morantz, Esq. **BY TELEFAX**
Betty Posey, Marin Superior Court Clerk

BOWLES & MOXON
6255 Sunset Blvd., Ste. 2000
Hollywood, CA 90028

ATTORNEY FOR (Name): Plaintiff: Church of Scientology Int'l

Insert name of court and name of judicial district and branch court, if any:
Superior Court of California
County of Los Angeles Central District

PLAINTIFF: Church of Scientology International

DEFENDANT: Gerald Armstrong; The Gerald Armstrong Corporation

FILED 3064
AUG - 9 1994

REQUEST FOR ☒ ENTRY OF DEFAULT ☐ CLERK'S JUDGMENT
☐ COURT JUDGMENT

CASE NUMBER: BC 052395

RECEIVED
CENTRAL DISTRICT
LOS ANGELES SUPERIOR COURT
'94 AUG 9
DEFL/DSML ROOM

1. TO THE CLERK: On the ~~complaint or cross-complaint filed~~ verified Second Amended Complaint
   a. on (date): April 5, 1994
   b. by (name): Church of Scientology International
   c. ☒ Enter default of defendant (names):

      Gerald Armstrong and The Gerald Armstrong Corporation

   d. ☐ I request a court judgment under CCP 585(b), (c), 989, etc. (Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under CCP 585(d).)
   e. ☐ Enter clerk's judgment
      (1) ☐ for restitution of the premises only and issue a writ of execution on the judgment. CCP 1174(c) does not apply. (CCP 1169)
      (2) ☐ under CCP 585(a). (Complete the declaration under CCP 585.5 on the reverse.)
      (3) ☐ for default previously entered on (date):

2. Judgment to be entered	Amount	Credits Acknowledged	Balance
a. Demand of complaint	$	$	$
b. Statement of damages (CCP 425.11) *(superior court only)**			
(1) Special	$	$	$
(2) General	$	$	$
c. Interest	$	$	$
d. Costs *(see reverse)*	$	$	$
e. Attorney fees	$	$	$
f. TOTALS	$	$	$

g. Daily damages were demanded in complaint at the rate of: $ per day beginning (date):

Date: August 9, 1994

Laurie J. Bartilson
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

*Personal injury or wrongful death actions only.

FOR COURT USE ONLY
(1) ☒ Default entered as requested on (date) AUG - 9 1994
(2) ☐ Default NOT entered as requested (state reason):

EDWARD M. KRITZMAN, CLERK

By:

(Continued on reverse)

Form Adopted by the Judicial Council of California
982(a)(6) (Rev. July 1, 1988)

REQUEST FOR ENTRY OF DEFAULT

CCP 585-587

EXHIBIT L.

DECLARAT[redacted] UNDER CCP 585.5 (Required for clerk's [redacted]gment under CCP 585(a))

3. This action
   a. ☐ is ☐ is not on a contract or installment sale for goods or services subject to CC 1801, etc. (Unruh Act).
   b. ☐ is ☐ is not on a conditional sales contract subject to CC 2981, etc. (Rees-Levering Motor Vehicle Sales and Finance Ac
   c. ☐ is ☐ is not on an obligation for goods, services, loans, or extensions of credit subject to CCP 395(b).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.... (TYPE OR PRINT NAME OF DECLARANT)

▶ ________________________ (SIGNATURE OF DECLARANT)

DECLARATION OF MAILING (CCP 587)

4. A copy of the foregoing request was
   a. ☐ not mailed to the following defendants whose addresses are unknown to plaintiff or plaintiff's attorney *(names)*:
   b. ☒ mailed first-class, postage prepaid, in a sealed envelope to each defendant's attorney of record, or if none, to each defendar at defendant's last known address
      (1) on *(date)*:
      (2) to *(specify names and addresses shown on the envelopes)*:

Ford Greene, Esq.
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 9, 1994

Laurie J. Bartilson (TYPE OR PRINT NAME)

▶ ________________________ (SIGNATURE OF DECLARANT)

MEMORANDUM OF COSTS (Required if judgment requested)

5. Costs and disbursements are as follows (CCP 1033.5):
   a. Clerk's filing fees .... $
   b. Process server's fees .... $
   c. Other *(specify)*: .... $
   d. .... $
   e. TOTAL .... $
   f. ☐ Costs and disbursements are waived.

I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of cost is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.... (TYPE OR PRINT NAME)

▶ ________________________ (SIGNATURE OF DECLARANT)

DECLARATION OF NONMILITARY STATUS

6. No defendant named above in item 1c is in the military service so as to be entitled to the benefits of the Soldiers' and Sailors Civil Relief Act of 1940 (50 U.S.C. Appen. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.... (TYPE OR PRINT NAME)

▶ ________________________ (SIGNATURE OF DECLARANT)

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On August 9, 1994, I served the foregoing document described as REQUEST FOR ENTRY OF DEFAULT on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

Paul Morantz
P.O. Box 511
Pacific Palisades, CA 90272

Ford Greene
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104

Michael L. Hertzberg
740 Broadway, 5th Floor,
New York, New York 10003

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on August 9, 1994, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ________________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

KENDRICK L. WILSON
Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

3068

FILED
SEP 07 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY: E. Keswick Deputy

Andrew H. Wilson, SBN # 063209
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900
Telefax: (415) 954-0938

Laurie J. Bartilson, SBN # 139220
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 463-4395
Telefax: (213) 953-3351

Attorneys for Plaintiff and Cross-Defendant CHURCH OF SCIENTOLOGY INTERNATIONAL

Ford Greene
HUB LAW OFFICES
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960
(415) 258-0360
Telefax: (415) 456-5318

Attorneys for Defendants GERALD ARMSTRONG and GERALD ARMSTRONG CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiffs,

vs.

GERALD ARMSTRONG, MICHAEL WALTON, et al.,

Defendants.

GERALD ARMSTRONG,

Cross-Complainant,

vs.

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California

CASE NO. 157 680

ORDER Re: JOINT APPLICATION FOR CONSOLIDATION

DATE: September 7, 1994
TIME: 9:30 a.m.
DEPT: 1

TRIAL DATE:

EXHIBIT M

Corporation, DAVID MISCAVIGE,)
DOES 1 to 100,)
Cross-Defendant.)

IT IS HEREBY ORDERED that Plaintiff Church of Scientology International's and Defendant Gerald Armstrong's Joint Application for Consolidation is set for hearing on September 23 at 9:00 a.m.

DATED: September __, 1994

GARY W. THOMAS
Hon. Gary W. Thomas

Moving papers to be filed September 12. Opposition papers by September 16; reply by September 20.

PROOF OF SERVICE

I declare that I am employed in the City and County of San Francisco, California.

I am over the age of eighteen years and not a party to the within entitled action. My business address is 235 Montgomery Street, Suite 450, San Francisco, California.

I am readily familiar with Wilson, Ryan & Campilongo's practice for collection and processing of correspondence for mailing with the United States Postal Service.

On September 7, 1994, I served the attached **ORDER RE: JOINT APPLICATION FOR CONSOLIDATION** and **JOINT APPLICATION FOR CONSOLIDATION**, on the following in said cause, by placing for deposit with the United States Postal Service on this day in the ordinary course of business, true copies thereof enclosed in sealed envelopes. The envelopes were addressed as follows:

Ford Greene, Esq.
711 Sir Francis Drake Blvd.
San Anselmo, California

Michael Walton
707 Fawn Dr.
San Anselmo, CA 94960

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on September 7, 1994.

Colleen Palmer
COLLEEN Y. PALMER